

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 1284-66

File No. 85-0501-9

RECEIVED

JUN 17 9 31 AM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JUL 1 1985

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JUL 1 - 1985
At 5:08 o'clock P.M.
MARCH FONG EU, Secretary of State
By Marjorie Hershberger
Deputy Secretary of State
LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Janet Lombard, Regulations Analyst

TELEPHONE

323-1889

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED
11-402.171

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☐ No

☒ Yes, if yes give date of previous filing May 1, 1985

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

January 18, 1985

b. DATE OF ADOPTION OF REGULATION(S)

June 14, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

April 12-26, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☐ No

☒ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☒ Effective on July 1, 1985 (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☒ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

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Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Adopt new Sections 11-400.1(a), (c), (m), (n), and (o); renumber current (a) through (p) to read:

11-400 AFDC-FOSTER CARE RATES (Continued)

11-400

.1 (Continued)

(a) Base Rate - the group home rate established by the Department during the prior fiscal year, or adjusted by audit pursuant to Section 11-402.741(a).

~~(a)~~(b)

(c) Cost Rate - the group home rate resulting from the computation in Section 11-402.15 of a program's reporting period, before application of a rate ceiling.

~~(b)~~(d)

~~(c)~~(e)

~~(d)~~(f)

~~(e)~~(g)

~~(f)~~(h)

~~(g)~~(i)

~~(h)~~(j)

~~(i)~~(k)

~~(j)~~(l)

(m) Planned activities - are the activities described in Title 22, California Administrative Code, Division 6, Chapter 5, Section 84079.

Title 22, Division 6, Chapter 5, Section 84079 states in part:

(a) The licensee shall develop, maintain, and implement a written plan to ensure that indoor and outdoor activities which include but are not limited to the following are provided for all children:

(1) Activities that require group interaction.

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- (2) Physical activities, including but not limited to games, sports and exercise.
- (3) Leisure time.
- (4) Educational activities, including attendance at an educational program in accordance with state law, and supervision of afterschool study as specified in Section 84078(c).
- (5) Activities which meet the training, money management, and personal care and grooming needs identified in the children's needs and services plans, as specified in Sections 84068.2(b)(3) through (5).

(n) Program Peer Group - for purposes of determining a rate ceiling, each group home program shall be classified as one of the following:

- (1) Psychiatric Model, see Section 11-402.161(a),
- (2) Psychological Model, see Section 11-402.161(b),
- (3) Social Model, see Section 11-402.161(c), or
- (4) Family Model, see Section 11-402.161(d).

(o) Program Peer Group Cost Base- the basis of cost comparisons for the purpose of developing rate ceilings shall be the range of per child base rates for each program peer group, i.e., the rates established for the prior fiscal year adjusted by the California Necessities Index (CNI), excluding programs which meet the conditions specified in Section 11-402.5, Deviations from the Rate Setting Process.

<x>(p)

<i>(q)

<m>(r)

<n>(s)

<o>(t)

<p>(u)

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Sections 10553 and 11462.

Amend Section 11-402.151 to read:

11-402 GROUP HOME RATE SETTING (Continued)

11-402

.1 Rate Determination Process (Continued)

.15 Rate Computation (Continued)

.151 In computing the monthly rate per child for each program, the total allowable costs, for the cost reporting period, for each program, adjusted pursuant to .14 above, shall be divided by the greater of:

(a) The monthly average number of children cared for during the cost reporting period.

(b) Eighty-five percent of the licensed capacity for the cost reporting period.

(1)(a) Changes in licensed capacity during the year shall be prorated according to the length of time the program operated under each capacity.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Sections 10554, 11402.9, and 11462.

Repeal Section 11-402.16 and adopt new Sections 11-402.16, and .17 to read:

11-402 GROUP HOME RATE SETTING (Continued)

11-402

.1 (Continued)

~~.16~~ Rate Ceilings

~~.161~~ For purposes of determining the fiscal year 1984/85 rate ceilings, the rate base shall be the rate established by the Department during fiscal year 1983/84, or adjusted by audit pursuant to Section ~~11-402.741(a)(1)~~.

(a) Rates determined by county welfare departments during the fiscal year 1982/83 in accordance with Sections ~~11-301.2~~ and ~~11-302.2~~ (new providers and rate exceptions) shall be the rate base.

~~.162~~ The maximum rate for fiscal year 1984/85 shall be the lesser of:

(a) The rate determined by the reasonable and actual allowable costs for the cost reporting period, incorporating the actual cost adjustment as specified in Section ~~11-402.14~~.

(b) The fiscal year 1983/84 rate base, plus any special adjustment made in accordance with Section ~~11-402.141~~, and an amount determined by the Department based on the allocation for AFDC-FG group home rate increases included in the Budget Act for fiscal year 1984/85. Any such increase shall be distributed as follows:

(1) For group home rates at or below the fiscal year 1983/84 median rate per child as a flat dollar amount per rate.

(2) For group home rates above the median rate per child, as a percentage amount of the fiscal year 1983/84 rate, but not less than the amount specified in (1) above.

(3) The sum of the amounts distributed to all providers as in (1) and (2) above shall not exceed the amount described in (b) above.

.16 Program Peer Group Determination Process

.161 The Department of Social Services (SDSS) shall classify each group home program into one of four program peer groups based on the overall similarity of the program to each set of characteristics described in Sections 11-402.16(a) through (d). A group home program shall not be required to meet all characteristics listed for a described model to be classified in the program peer group associated with that model. The four program peer group classifications shall be based on the following criteria:

(a) Psychiatric Model

- (1) Treatment Focus - primarily designed to treat children with diagnosed psychiatric problems.
- (2) Psychiatric Services - full-time (40 hours per week or more) payroll or contract staff provide direct psychiatric services to all children in the program; psychiatric consultation is used on program design and staff training.
- (3) Psychological Treatment Services - not usually provided.
- (4) Social Work Activities - primarily provided by Licensed Clinical Social Workers (LCSW), with approximately one full-time position equivalent per eight beds licensed capacity.
- (5) Intensity of Basic Care - provided by child care workers who hold Bachelors degrees and above; staffed in eight-hour shifts, with awake night staff; during peak hours regular child care staff are augmented.
- (6) Housing Pattern - large, self-contained, campus-like facility with the majority of services provided on site.
- (7) Community Involvement - children rarely participate in community recreational and other activities, and are always accompanied by group home staff who provide close supervision.
- (8) Education - children attend a public or private school located on grounds or at another location primarily operated for the group home program; educational services are integrated with other group home services.

(9) Planned Activities - are professionally designed and highly individualized, aimed at the social and physical development of the individual child, and integrated with other services as a scheduled part of treatment.

(b) Psychological Model

(1) Treatment Focus - primarily designed to treat underlying emotional problems of children and families; behavioral issues are also addressed.

(2) Psychiatric Services - part-time (less than 40 hours per week) payroll or contract staff provide direct psychiatric services to some children; psychiatric consultation is likely to be used on program design and staff training.

(3) Psychological Services - full-time (40 hours or more per week) payroll or contract staff provide direct psychological services to all children in the group home program; psychological consultation is used on program design, individual children's treatment plans, and staff training.

(4) Social Work Activities - primarily provided by persons holding Masters of Social Work (MSW), licensed Marriage, Family and Child Counselor (MFCC) or equivalent degrees as approved by Community Care Licensing, with some LCSW; approximately one full-time position equivalent per nine to 16 beds licensed capacity.

(5) Intensity of Basic Care - provided primarily by child care staff with Associates degrees or over 60 semester units of college; staffed in eight-hour shifts with awake night staff or may have asleep night staff with a separate facility for day programming; during peak hours regular child care staff may be augmented, or relief staff may be scheduled at weekly or bi-weekly intervals.

(6) Housing Pattern - large, campus-like facility with the majority of services provided on-site, or centralized day programming with off-site residential homes.

(7) Community Involvement - children participate in community recreational and other activities occasionally, with the usage structured and the

activity itself, as well as the children, supervised by group home staff.

(8) Education - children attend an on-grounds public or private school or an off-grounds public school.

(9) Planned Activities - are centrally planned and scheduled; activities are structured and integrated with other services, with little individual choice of activities by children.

(c) Social Model

(1) Treatment Focus - primarily designed to treat children exhibiting behavioral problems who do not evidence marked emotional problems.

(2) Psychiatric Services - psychiatric services, if required, are provided by various psychiatrists in the community; little or no psychiatric consultation on program design and staff training.

(3) Psychological Services - part-time (less than 40 hours per week) payroll or contract staff provide direct psychological services; some children receive direct psychological services; likely to be psychological consultation on program design and staff training.

(4) Social Work Activities - primarily provided by persons holding MSW, MFCC, or equivalent degrees as approved by Community Care Licensing; approximately one full-time position equivalent per 17 to 25 beds licensed capacity.

(5) Intensity of Basic Care - provided by child care staff who primarily are high school graduates with some college, usually less than 60 semester units; staffed in eight-hour shifts with awake night staff, or may have asleep night staff when there is a separate facility for day programming, or child care staff may work 24-hour, or multiple 24-hour shifts; relief staff are scheduled occasionally, usually not more than once a month.

(6) Housing pattern - centralized day programming with off-site residential homes, or small (eight beds or less) facilities located in the community without a central service site or a large

campus-like facility with the majority of services provided on-site.

- (7) Community Involvement - children frequently participate in community recreational and other activities, with supervision of the children, rather than supervision of the activity itself, provided by the group home program.
- (8) Education - children attend off-grounds public school or an on-grounds private or public school.
- (9) Planned Activities - are planned by the group home programs, with some degree of choice of activities exercised by children.

(d) Family Model

- (1) Treatment Focus - primarily designed to provide socialization for children who do not display age-appropriate social and relationship skills.
- (2) Psychiatric Services - little or no direct psychiatric services or consultation is provided.
- (3) Psychological Services - little or no direct psychological services or consultation is provided.
- (4) Social Work Activities - primarily provided by persons holding MSW, MFCC, or equivalent degrees as approved by Community Care Licensing; approximately one full-time position equivalent per 25 or more beds licensed capacity.
- (5) Intensity of Basic Care - provided primarily by child care staff who are high school graduates or equivalent (GED or four years experience in the child care field); where child care staff perform paracounseling services, qualifications required by the group home program may be higher, e.g., Bachelors degrees and above; child care staff include live-in houseparents, and may include other full or part time child care workers, typically with no awake night staff; relief staff are scheduled occasionally, usually not more than once a month.
- (6) Housing Pattern - single, small (eight beds or less) facility or multiple small facilities located in the community.

(7) Community Involvement - children participate extensively in community recreational and other activities, with parental-type supervision.

(8) Education - all children attend public schools.

(9) Planned Activities - are family type, community based, with a high degree of choice of activities exercised by children.

.162 The classification shall be based entirely on information available to SDSS as of the due date of the provider's rate request.

.163 Providers shall report all information necessary for a determination by SDSS of the applicable program peer group as part of the annual rate determination process pursuant to Section 11-402.411(a) and as follows:

(a) Upon initiation of a new program pursuant to Section 11-402.52.

(b) As needed to clarify discrepancies between the information provided in the rate request and by counties pursuant to Section 11-402.164.

.164 Upon request by SDSS, counties shall report their understandings of the services offered by the program.

.165 The program peer group classification shall be based on the program structure and services as of December 1 of each year and shall be effective for the following fiscal year, except as follows:

(a) The provider meets the conditions specified in Section 11-402.5, Deviations from the Rate Setting Process. In such case, the effective period of the program peer group classification shall be consistent with the applicable rate request submission requirement and the effective date(s) of the rate(s).

.166 The program peer group cost base shall be the range of per child base rates for each program peer group, i.e., the rates established for the prior fiscal year, adjusted by the California Necessities Index (CNI), excluding programs which meet the conditions specified in Section 11-402.5, Deviations from the Rate Setting Process (Section 11-400.1(o)).

.167 The base rate shall be the rate established by the Department during the prior fiscal year, or adjusted by audit pursuant to Section 11-402.741(a) (Section 11-400.1(b)).

.168 Program peer group reclassifications as the result of audits under Section 11-402.7 and rate reviews and hearings under Section 11-402.6 shall be incorporated in the program peer group cost base the fiscal year following the date the provider is notified the audit exception has been sustained or the rate review determination or hearing decision is issued by SDSS.

.17 Rate Ceilings

.171 The maximum rate for each program shall be the lesser of:

(a) The cost rate.

(b) The greater of:

(1) The highest rate previously established by SDSS, or adjusted by audit pursuant to Section 11-402.741(a), excluding initial rates established under Section 11-402.5.

(2) The base rate plus an amount determined by the Department based on the appropriation for AFDC-FC group home rate increases included in the annual Budget Act. Any appropriation for AFDC-FC group home rate increases shall be distributed as follows:

(A) For base rates up to the 85th percentile per child within the applicable program peer group cost base, an increase up to the lesser of the percentage increase appropriated for group home rate increases in the Budget Act or the 85th percentile adjusted by one-half that increase shall be allowed.

(B) For base rates above the 85th percentile per child within the applicable program peer group cost base, an increase equal to one-half the percentage increase appropriated for group home rate increases in the Budget Act shall be allowed.

(C) Any difference between the total appropriation for group home rate increases and the amount distributed under Sections

11-402.171(b)(2)(A) and (B) shall be distributed as follows:

- (i) For base rates below the 15th percentile per child within the applicable program peer group cost base after application of the increase under Section 11-402.171(b)(2)(A) and (B), an increase up to this level shall be allowed to the extent funds are available. If the amount of funds is insufficient for this purpose, the funds available shall be distributed as a flat dollar increase to these rates up to the applicable 15th percentile per child.

.172 Example: Assume the percentage appropriated in the Budget Act for AFDC-FC group home rate increases is 4 percent, and sufficient funds are available to increase all Base Rates to the 15th percentile of the applicable program peer group cost base.

- (a) Group Home A's Base Rate is \$1200, the current Cost Rate is \$1300, the 85th percentile of the applicable program peer group cost base is \$2800, the median is \$1700, and the 15th percentile is \$1250.

Calculation:

\$1200 (the Base Rate) is less than \$2800 (the 85th percentile).

\$1200 (the Base Rate) X 1.04 (the percentage appropriated) = \$1248.

\$1248 is less than \$1250 (the 15th percentile). The Rate Ceiling is therefore \$1250.

\$1250 (the rate ceiling) is less than \$1350 (the Cost Rate).

The rate established is \$1250.

- (b) Group Home B is a member of the same program peer group as Group Home A. Group Home B's Base Rate is \$2750; the current Cost Rate is \$2900.

Calculation:

\$2750 (the Base Rate) is less than \$2800 (the 85th percentile).

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$\$2750$ (the Base Rate) $\times 1.04$ (the percentage appropriated) = $\$2860$.

$\$2860$ is greater than $\$2800$ (the 85th percentile). The Rate Ceiling is therefore $\$2856$ ($\$2800 \times 1.02$).

$\$2856$ is less than $\$2900$ (the Cost Rate).

The rate established is $\$2856$.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Sections 10553, 11460, and 11462.

Adopt Section 11-402.611(c)(1) to read:

11-402 GROUP HOME RATE SETTING (Continued)

11-402

.6 Rate Review Process

.61 (Continued)

.611 The written review request shall include the following information:

- (a) Name and phone number of the person representing the provider, if applicable.
- (b) Name and address of the provider.
- (c) Reason for the review request, including any additional substantiating information.

(1) If the reason for the review request is a disagreement with the program peer group classification made by SDSS, substantiating information shall include identification of each county which had a child placed in the program, and the number of children placed by each county, as of December 1 of the preceding fiscal year.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Sections 11460 and 11462.

FILED
In the office of the Secretary of State
of the State of California

JUL 1 - 1985
At 4:13 o'clock P.M.
MARCH FONG EU, Secretary of State
By Marjorie Hershberger
Deputy Secretary of State

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

ORDER OF REPEAL
Government Code section 11349.6(b)

Department of Social Services

Manual of
Policies and Procedures

The adoption of sections 63-055 and 63-503 and the amendment to sections 63-201 and 63-502 of the Manual of Policies and Procedures, which were adopted by the Department of Social Services (DSS) as emergency regulations and filed with the Secretary of State on July 1, 1985, are hereby repealed pursuant to Government Code section 11349.6(b).

The "Finding of Emergency" submitted by DSS fails to comply with Government Code section 11346.1(b) which requires a description of the specific facts showing the need for immediate action.

The Office of Administrative Law has determined, based upon the evidence presented by DSS, that the adoption of the above-referenced regulations is not necessary for the immediate preservation of the public peace, health and safety, or general welfare. Therefore, in accordance with Government Code section 11349.6(b), the regulations are repealed.

Dated: July 1, 1985


LINDA STOCKDALE BREWER
Director

ENDORSED
APPROVED FOR FILING

JUL 1 1985

Office of Administrative Law

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

**FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW**

8506271
ORD #0685-37

RECEIVED
JUN 27 10 40 AM '85
OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
JUL 1 1985
Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JUL 1 - 1985
At 4:13 o'clock P.M.
MARCH FONG EU, Secretary of State
By: Marjorie Hershberger
Deputy Secretary of State

LEAVE BLANK

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION
Dion Webb, Regulations Analyst

TELEPHONE
445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22 SECTIONS AMENDED
69-208.711, .712, .731, and .732
SECTIONS ADOPTED
69-208.733
SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
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ADMINISTRATIVE NOTICE REGISTER

b. DATE OF ADOPTION OF REGULATION(S)

JUNE 26, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
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☒ Request Attached
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b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

State of California

Health and Welfare Agency

MEMORANDUM

To : Office of Administrative Law
1414 K Street, Suite 600
Sacramento, CA 95814

Date: June 24, 1985

Subject: Refugee Demonstration
Project Revisions

From: Department of Social Services, 744 P Street, Sacramento, CA 95814

The attached set of regulations is meant to correct inaccurate language that was filed with the Secretary of State (ORD 1084-49, OAL 85-0611-03) on June 18, 1985. The prior package was filed emergency with a July 1, 1985 effective date. Since this package corrects the previous emergency filing, it is imperative that it also be effective July 1, 1985, otherwise the possibility exists of denying benefits to appropriate clients erroneously. It is our intention to notice this change to the public and file a combined Certificate of Compliance for both regulation changes at the same time. If you believe this action to be inappropriate, please contact me at 445-0313.



Rosalie Clark, Chief
Office of Regulations Development

Attachment

Amend Sections 69-208.711, .712, .731, and .732 and adopt Section .733 to read:

69-208 REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS (Continued)

.7 (Continued)

.71 (Continued)

.711 Except as provided in Sections 69-208.5 and 69-208.73, a noncomplying recipient shall be ineligible for RCA benefits for three payment months for the first occurrence and six payment months for the second and subsequent occurrences from the date of discontinuance for refusal or failure to comply without good cause. Aid continued to the rest of the assistance unit if the members are otherwise eligible.

.712 Except as provided in Sections 69-208.5 and 69-208.73, the noncomplying individual shall be ineligible for RDP benefits for three payment months for the first occurrence and six payment months for the second and subsequent occurrences from the date of discontinuance for refusal or failure to comply without good cause. Aid continues to the rest of the assistance unit if the members are otherwise eligible, except that:

69-208 REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS (Continued)

.7 (Continued)

.73 (Continued)

.731 An The noncomplying individual in an RCA assistance unit shall be ineligible for RCA benefits until all of the nonexempt individuals in the applicant assistance unit have registered as required he/she has registered as required. Other nonexempt individuals in the assistance unit who fail or refuse to register shall be ineligible for RDP benefits.

.732 An RDP assistance unit shall be ineligible for RDP benefits until the nonexempt caretaker relative (FS) or principal earner (U) RDP-U parent has registered as required. Other nonexempt individuals in the assistance unit who fail or refuse to register shall be ineligible for RDP benefits.

.733 A nonexempt RDP-FG individual shall be ineligible for RDP benefits until he/she has registered as required. Aid continues to the remainder of the assistance unit unless the RDP-FG individual who fails or refuses to register is the only eligible child in the assistance unit, in which case, the entire assistance unit is ineligible for RDP benefits.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Division 9, Part 3, Chapter 5.2 and 8 USC Section 1522(e)(7).

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

8506211

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED

JUN 21 11 56 AM '85

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING

JUL 1 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

ORD #0585-26

FILED

In the office of the Secretary of State
of the State of California

JUL 1 - 1985
At 4:13 o'clock P.M.

MARCH FONG EU, Secretary of State

By: Mayorie Newberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

TELEPHONE 445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED
63-201.31, .311, .312, .33; and 63-502.161 and .162
SECTIONS ADOPTED 63-055; 63-201.312, .313, .313(a), .314, .315, and .34; 63-502.15
and .151; and 63-505.5, .51, .511, .511(a), and .512
SECTIONS REPEALED
None

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

Not Applicable

b. DATE OF ADOPTION OF REGULATION(S)

June 18, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

Not Applicable

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
c. ☒ Effective on July 1, 1985 (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☒ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

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- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Adopt Section 63-055 to read:

63-055 IMPLEMENTATION OF THE FOOD STAMP DISCLOSURE 63-055
AND NONCOMPLIANCE WITH OTHER PROGRAMS.
PROVISIONS

- .1 Section 63-201.3 as amended herein, shall become effective on July 1, 1985.
- .2 Sections 63-502.15 and .16; 63-503.5, .51, .511, .511(a) and .512 as amended or adopted herein, shall become effective on July 1, 1985, and shall apply to all acts of intentional noncompliance that occur on or after that date.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18904.

Amend and renumber Section 63-201.3 to .31, .311 and .33; renumber former Section 63-201.31 to .32; and adopt Sections 63-201.312 through .315 and .34 to read:

63-201 GENERAL TERMS AND CONDITIONS (Continued)

63-201

.3 Disclosure

.31 Use or disclosure of information obtained from food stamp applicant households, exclusively for the Food Stamp program, shall be restricted to the following persons:

.311 Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, the Food Distribution Programs, or with other Federal or federally-assisted state programs which provide assistance on a means-tested basis to low income individuals; and aided means-tested assistance programs, such as Title IV-A (AFDC), XIX (Medicaid), or XVI (SSI), or with general assistance programs that are subject to the joint processing requirements specified in Section 63-301.7;

.312 Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law;

.313 Local, state or federal enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations.

(a) The written request shall include the identity of the individual requesting the information and his authority to do so, the violation being investigated, and the identity of the person on whom the information is being requested.

.314 Persons directly connected with the administration of the Child Support Program under Title IV-D of the Social Security Act in order to assist in the administration of that program.

.315 Employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under Title II and Title XVI of the Social Security Act.

.312 If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials contained in its case file, the material and information contained in the case file shall be made available for inspection during normal business hours. However, the county may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

.33 However t[his section shall not prohibit the furnishing of such information to county supervisors of schools or supervisors of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind services directly to the individual on the basis of need.

.34 Any of the persons specified in Sections 63-201.311 - .315 who receive food stamp case file information, shall adequately protect this information against disclosure to unauthorized persons or for purposes not specified in this section.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: 7 CFR 272.1(c)(1) and Section 2651(a)(4) of the Deficit Reduction Act dated October 9, 1984 (PL 98-369).

Amend and renumber Sections 63-502.15 and .151 and .152 to 63-502.16 and .161 and .162; adopt new Sections 63-502.15 and .151 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.15 Income shall also include monies withheld from CWD paid grants or other federal, state or local means-tested programs to repay an overpayment which resulted from the household's intentional failure to comply with that program's requirements. See Section 63-503.5.

.151 For purposes of this section, "means-tested" means that the household's financial circumstances are considered in determining eligibility and/or benefit level, and these means-tested programs make publicly-funded payments to the household.

.156 Income shall not include the following:

.1561 Monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under Section 63-502.2, or specified in Section 63-502.15.

.1562

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: 7 CFR 273.9(b)(5)(i).

Adopt Section 63-503.5 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS 63-503

.5 Households with a Decrease in Income Due to Intentional Failure to Comply

.51 The CWD shall not increase food stamp benefits as the result of a penalty that has been imposed for an intentional failure to comply with a federal, state or local welfare program which is means-tested, as defined in Section 63-502.151. Food stamp benefits shall be determined in accordance with Sections 63-503.511 and .512.

.511 The CWD shall identify that portion of the decrease which is the penalty.

(a) The penalty shall be that portion of the decrease in the grant attributed to the repayment of benefits overpaid as a result of the household's intentional failure to comply as determined by the other program.

.512 The CWD shall calculate food stamp benefits using the benefit amount that would have been issued if no penalty had been imposed.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 7 CFR 273.11(j).

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #1083-65

350531 4

RECEIVED

MAY 31 4 29 PM '85

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING

JUL 1 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services

(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JUL 1 - 1985
At 5:08 o'clock P. M.
MARCH FONG EU, Secretary of State
By Mejorie Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

TELEPHONE

5-0313/3-0883

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED 63-301.531; 63-602.11, .13, and .14-.144; 63-605.2 and .26

Title: MPP

SECTIONS ADOPTED 63-041, 63-602.12 and .145

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

July 27, 1984

b. DATE OF ADOPTION OF REGULATION(S)

May 2, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))
October 19-November 2, 1984
January 25-February 8, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective on _____ as required by statutes: (list) _____
- c. ☒ Effective on upon filing with the Secretary of State (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☒ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

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(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

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- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

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b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

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- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
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- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Adopt new Section 63-041 to read:

63-041 IMPLEMENTATION OF FOOD STAMP ON-LINE
ISSUANCE SYSTEM (FSOLIS)

63-041

Food Stamp On-Line Issuance System, FSOLIS, regulatory provisions shall be effective on the date these regulations are filed with the Secretary of State. CWDs shall have a FSOLIS in operation no later than July 1, 1986 unless exempted in accordance with Section 63-602.12 or unless SDSS has approved a request for an extension. CWDs shall submit their cost benefit analysis to SDSS by July 1, 1985.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18902 and 7 CFR 277.18 and 274.2.

Amend Section 63-301.531 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.53 Processing Standards (Continued)

.531 Expedited Service Households

For households entitled to expedited service, except as specified in Sections 63-301.532 and .533 below, the CWD shall mail the household's ATP or coupons no later than the close of business of the fifth calendar day following the date the application was filed.

The CWD shall offer the household the option of having the ATP or coupons mailed by the fifth calendar day or of having the ATP or coupons available for the household or its authorized representative to pick up no later than the start of business of the fifth calendar day following the date the application was filed. In counties CWDs that use either an HIR issuance system or a FSOLIS and that do not provide any mail issuance, the county shall have the coupons available for the household or its representative to pick up no later than the start of business of the fifth calendar day following the date the application was filed.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18902 and 7 CFR 274.2 and CFR 277.18.

Adopt new Sections 63-602.12, .121, .122, .123, and .145. Renumber Sections 63-602.12 and .13, to .13 and .14, and repeal former .14 heading; Renumber Sections 63-602.15 and .16 to .143, and .144, respectively; and Amend Sections 63-602.11, .112, .113, .114, .13, .14, .141, .142, .143, and .144 to read:

63-602 ISSUANCE SYSTEMS

63-602

.1 Systems Classifications

.11 Types of Issuance Systems

Counties may issue food coupons in accordance with the following major issuance systems; however, Each county CWD must shall provide both an over-the-counter and a mail issuance system unless a waiver for one of these methods is granted as specified in paragraphs .13, .14, .15, and .16 of this section. Section 63-602.14. CWDs may issue food coupons in accordance with the following issuance systems:

.111 A household issuance record (HIR) card system in which the authorizing document is maintained at the issuance office;

.112(2) aAn authorization to participate (ATP) system in which an authorizing document is distributed on a monthly basis to the household and surrendered to the coupon issuer when coupons are obtained; or

.113(3) aA non-ATP coupon mailout system; or

.114 An SDSS approved automated issuance system. In addition, the county may develop an automated issuance system, such as one using online issuance terminals, which cannot be readily categorized as either an HIR card or ATP system. Such alternative or modified

The automated issuance systems shall meet the accountability requirements established in these regulations and must be approved by FSPMB-5055 before being implemented Division 63 of the Manual of Policies and Procedures.

.12 Food Stamp On-Line Issuance System (FSOLIS)

CWDs with 2,000 or more food stamp households shall use an SDSS approved automated issuance method as their sole over-the-counter issuance method unless, SDSS determines that FSOLIS is not cost effective. CWDs with fewer than 2,000 food stamp households may use a FSOLIS as their sole over-the-counter issuance system if a cost benefit analysis, including all cost data elements is submitted to and approved by SDSS. Additionally, CWDs with 2,000 or more households shall submit a cost benefit analysis to SDSS (see Section 63-041) that shall:

.121 Meet Division 28 EDP cost benefit analysis requirements;

.122 Include all costs associated with their existing method(s) of issuance and all costs to develop, implement, and operate a FSOLIS which meets state requirements; and

.123 Be in a format prescribed by SDSS.

*12 .13 BFA 298's Annual County Food Stamp Questionnaire

The FSPMB-SDSS must shall be informed of whatever issuance system(s) is/are used through the submission of a BFA 298 and BFA 298*2, Information Statement via the Annual Food Stamp Questionnaire.

*13.14 Waiver of Mail or Over-the-Counter Issuance

.141 Counties CWDs may request a waiver of mail issuance from the SDSS. In requesting the waiver, the county CWD must shall be able to document that the remaining over-the-counter issuance system would not impair the ability of eligible households to obtain food stamps. In order to obtain approval for mail issuance waiver requests, the county CWD must shall have an adequate number of over-the-counter sites to provide reasonable access to recipients. The proposed system must shall also be designed to efficiently and effectively meet the requirements for expedited services, † Section 63-301.5†, and coupon replacements, † Section 63-605†.

*14 Waiver of Over-the-Counter Issuance

.142 Counties CWDs may also request a waiver of over-the-counter issuance from SDSS. In requesting the waiver, the county CWDs must shall

be able to document that the remaining mail issuance system would not impair the ability of eligible households to obtain food coupons. The remaining system must shall be designed to efficiently and effectively meet the requirements of expedited services, ~~{Manual}~~ Section 63-301.5, and coupon replacements, ~~{Manual}~~ Section 63-605. The system must shall be designed to minimize the possibility of mail losses.

~~15.143~~ All waiver requests must shall be in writing (with a copy to the County Board of Supervisors) and shall provide complete justification for seeking the waiver.

~~16.144~~ Counties CWDs granted waivers of either issuance method may continue to utilize this issuance method in certain areas. Counties granted waivers must submit revised BFA 298's and BFA 298.2's reflecting their revised issuance procedures. All mail issuance waivers that were granted prior to January 1, 1979, shall remain in effect under the terms of these regulations provided that reasonable recipient access is maintained.

.145 All over-the-counter waivers issued prior to the effective date of these regulations for CWDs with 2,000 or more food stamp households shall remain in effect only if SDSS determines that a FSOLIS is not cost effective.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902, and 7 CFR 274.2 and 277.18.

Amend Section 63-605.2 and .26 to read:

63-605 COUPON/ATP REPLACEMENTS (Continued)

63-605

- .2 Household Reporting Responsibilities. For the purpose of this section reporting shall mean contacting the CWD in person, by mail, or by telephone. To be eligible for a replacements the head of household member or its authorized representative shall:

63-605 COUPON/ATP REPLACEMENTS (Continued)

63-605

.2 (Continued)

- .26 Prior to actual replacement the head of household member, or its authorized representative shall complete and sign a DFA 303 stating that the original ATP or coupons will be returned to the CWD if recovered by the household and that the household is aware of the penalties for intentional misrepresentation of the facts, except when replacements are made under Section 63-605.133. However, if the participant is unable to come into the office because of age, handicap, or distance from the office and is unable to appoint an authorized representative, the DFA 303 may be completed and sent in by mail.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 10554, 18901, and 18904 and 7 CFR 273.11(g), 7 CFR 274.2, and 7 CFR 274.7.

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0585-32

8505313

RECEIVED

MAY 31 4 29 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JUL 1 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services
(AGENCY)

BY: James R. Rhoads
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JUL 1 - 1985
At 5:08 o'clock P.M.
MARCH FONG EU, Secretary of State
By Mayorie Hensberger
Deputy Secretary of State
LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

TELEPHONE

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22 SECTIONS AMENDED
101251 thru 102423, nonsequential
SECTIONS ADOPTED
101151 thru 101239, nonsequential
SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☒ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

Not applicable

b. DATE OF ADOPTION OF REGULATION(S)

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

Not applicable

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☐ No ☒ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective on July 1, 1985 as required by statutes: (list) Statutes of 1984, Chapter 1615, Section 1596.81 (b)
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

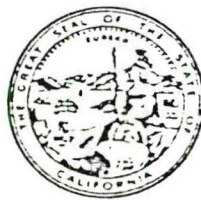
- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Manual of Policies and Procedures

**GENERAL LICENSING
REQUIREMENTS**

DSS

85-0531-3



STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES

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CHAPTER 1 — GENERAL LICENSING REQUIREMENTS

Article 1. GENERAL DEFINITIONS

~~101151~~
~~80000~~ GENERAL~~101151~~
~~80000~~

- (a) The general regulations in this chapter shall apply to all community care facilities regulated by Division 6, Chapters 2 through 7 and Chapter 9, except where specifically exempted. Additional or special requirements found in the corresponding chapters pertaining to each category shall apply only to such individual facility categories.
- (b) The licensee shall ensure compliance with all applicable law and regulations.
- (c) ~~An existing facility licensed as a Large Family Home for Children shall be required, by April 1, 1984, to choose one of the following licensing categories and to document the choice by completing and forwarding a form LIC 200 to the licensing agency. The facility shall be required to meet the requirements of the chosen category by July 1, 1984. Between January 1, 1984 and July 1, 1984 the facility shall comply with the requirements for Small Family Home Facilities except for changes from the previous requirements regarding capacity and physical environment.~~
- (1) ~~Group Home, as specified in this Chapter and Chapter 5.~~
- (2) ~~Small Family Home, as specified in this Chapter and Chapter 4.~~
- (A) ~~Licensees who choose this option shall be required to reduce their facility's licensed capacity to six or fewer children.~~
- (3) ~~Foster Family Home, as specified in Chapter 7.5.~~
- (A) ~~Licensees who choose this option shall be required to reduce their facility's licensed capacity to six or fewer children.~~
- (d) ~~An existing facility licensed as a Large Family Home for Adults, Small Family Home for Adults, or Group Home for Adults shall be required to meet the requirements for Adult Residential Facilities as specified in this Chapter and Chapter 6 by April 1, 1984. Between January 1, 1984 and April 1, 1984 the facility shall comply with the requirements for Adult Residential Facilities except for changes from the previous requirements regarding physical environment, staff training and provision of care and supervision to minors who are not emancipated as specified in Section 86001(a)(1) and Civil Code Section 62.~~
- (e) ~~An existing facility licensed as a Large Family Day Home - Adults or Small Family Day Home - Adults shall by April 1, 1984, meet the requirements for Adult Day Care Facilities. Between January 1, 1984 and April 1, 1984 the facility shall comply with the requirements for Adult Day Care Facilities except for changes from the previous requirements regarding physical environment, staff training, staff ratios, and provision of care and supervision to minors who are not emancipated as specified in Section 86001(a)(1) and Civil Code Section 62.~~
- (f) ~~An existing facility licensed as a Social Rehabilitation Facility shall be required by April 1, 1984 to choose one of the following licensing categories and to document the choice by completing and forwarding a form LIC 200 to the licensing agency. The facility shall be required to meet the requirements of the chosen category by July 1, 1984. Between January 1, 1984 and July 1, 1984 the facility shall comply with the requirements for Rehabilitation Facilities except for changes from the previous requirements regarding the types of clients to be served.~~

~~80000 GENERAL (Continued)~~~~80000~~

- (1) Rehabilitation Facility, as specified in this Chapter and Chapter 7.
- (2) Group Home, as specified in this Chapter and Chapter 5.
 - (A) Licensees who choose this option shall be required to serve only minors.
- (3) Adult Residential Facility as specified in this Chapter and Chapter 6.
 - (A) Licensees who choose this option shall be required to serve only adults and/or emancipated minors as specified in Section 86001(a)(1) and Civil Code Section 62.
- (g) An existing facility licensed as a Social Rehabilitation Center shall by April 1, 1984, meet the requirements for Adult Day Facilities. Between January 1, 1984 and April 1, 1984 the facility shall comply with the requirements for Adult Day Facilities except for changes from the previous requirements regarding physical environment, staff training, staff ratios, and provision of care and supervision to minors who are not emancipated as specified in Section 86001(a)(1) and Civil Code Section 62.

101152

~~80001~~ DEFINITIONS

101152

~~80001~~

- (a) The following general definitions shall apply wherever the terms are used throughout Division ~~8.12~~ Chapters 1 through 7 and Chapter ~~9.2~~ except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.
 - (1) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
 - (2) "Adult" means a person who is 18 years of age or older.
 - (3) "Adult Day Care Facility" means any facility of any capacity which provides non-medical care and supervision to adults on less than a 24-hour per day basis.
 - (4) "Adult Residential Facility" means any facility of any capacity which provides 24-hour a day nonmedical care and supervision to adults except elderly persons.
 - (3) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has made application for an initial or renewal community care facility license.
 - (4) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
 - (5) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.

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80001

DEFINITIONS (Continued)

- ⁶
(8) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- ⁷
(9) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- ⁸
(10) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section ¹⁰¹²²⁶~~80075~~.
 - (C) Central storing and/or distribution of medications, as specified in Section ¹⁰¹²²⁶~~80075~~.
 - (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of clients.
 - (F) Supervision of client schedules and activities.
 - (G) Maintenance and/or supervision of client cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section ¹⁰¹¹⁵²~~80001~~ (a)(8).
- ⁹
(11) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.
 - (E) Allowances paid to children.
 - (F) Any other similar resources as determined by the licensing agency.
- ¹⁰
(12) "Child" means a person who is under 18 years of age.
- ¹¹
(13) "Child Care Center" means any facility of any capacity other than a family day care home as defined in Section ~~88002~~ (i) in which less than 24-hour per day non-medical supervision is provided for children in a group setting.

102352

10115280001 DEFINITIONS (Continued)10115280001

- ¹²
(14) "Client" means a child or adult who is receiving care and supervision in a community care facility. Client includes "resident" as used in the Community Care Facilities Act.
- ¹³
(15) "Community Care Facility" means any facility, place or building where non-medical care and supervision, as defined in Section ~~80001~~ ¹⁰¹¹⁵² (a)(10) are provided.
- ¹⁴
(16) "Completed Application" means:
- (A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; a criminal record clearance on the applicant and any other individuals specified in Section ~~80019~~ ¹⁰¹¹⁷⁰.
- (B) The licensing agency has completed a site visit to the facility.
- ¹⁵
(17) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.
- ¹⁵
(18) "Deficiency" means any failure to comply with any provision of the ~~Community~~ ^{CALIFORNIA} ~~Care Facilities Act~~ ^{Child} (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act. ^{96.70}
- ¹⁶
(19) "Department" is defined in Health and Safety Code Section 1502(b). ^{96.77}
- (A) *Department means the State Department of Social Services.*
- ¹⁷
(20) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).
- (A) *Welfare and Institutions Code Section 4512(a) provides in part: "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual.*
- This term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.*
- ¹⁸
(21) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.
- ¹⁹
(22) "Director" is defined in Health and Safety Code Section 1502(b). ^{96.770}
- (A) *Director means the director of the State Department of Social Services.*
- (23) "Elderly Person" means ~~any person who is 62 years of age or older.~~

10115280001

DEFINITIONS (Continued)

10115280001

- ²⁰
(24) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.
- ²¹
(25) "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for particular client(s) or staff person(s) and are not transferable or applicable to other client(s), staff person(s), facilities or licensees.
- ²²
(26) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.
- ²³
(27) "Existing Facility" means any community care facility operating under a valid, unexpired license on the date this chapter becomes effective.
- ²⁴
(28) "Group Home" means any facility of any capacity which provides 24-hour non-medical care and supervision to children in a structured environment, with such services provided at least in part by staff employed by the licensee.
- ²⁵
(29) "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate of another.
- ²⁶
(30) "Home Economist" means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.
- ²⁷
(31) "Infant" means a child under two years of age.
- ²⁸
(32) "License" means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.
- ²⁹
(33) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.
- ³⁰
(34) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
- ³¹
(35) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.

~~101132~~
~~80001~~ DEFINITIONS (Continued)~~101132~~
~~80001~~

- (30) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.
- (A) A person who uses supportive restraints as specified in Section 80072(a)(8) is deemed nonambulatory.
- (B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.
- (C) *Health and Safety Code Section 13131 provides:*
- "Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.*
- ~~32~~
(37) "Nutritionist" means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.
- ~~33~~
(38) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.
- ~~34~~
(39) "Provision" or "Provide" means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.
- ~~35~~
(40) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months. A provisional license is issued in accordance with the criteria specified in Section ~~80030~~ ~~101181~~.
- ~~36~~
(41) "Rehabilitation Facility" means any facility of any capacity which provides 24-hour a day nonmedical care and supervision in a group setting to adults and/or emancipated minors recovering from alcohol and/or drug misuse, who are currently or potentially capable of meeting their life support needs independently, but who temporarily need assistance, guidance or counseling.
- ~~37~~
(42) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
- ~~37~~
(43) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.
- (A) *See Section 80051 and other applicable sections in Chapters 2 through 7 for examples of violations which commonly result in serious deficiencies.*
- ~~37~~
(44) "Small Family Home" means any residential facility in the licensee's family residence providing 24-hour a day care for six or fewer children who are mentally disordered, developmentally disabled or physically handicapped and who require special care and supervision as a result of such disabilities.

~~80001~~ 101152

DEFINITIONS (Continued)

101152
~~80001~~

- (45) "Social Worker" means a person who has a graduate degree from an accredited school of social work.
- (46) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.
- ³⁸
(47) "Substantial Compliance" means the absence of any serious deficiencies.
- ³⁹
(48) "Urgent Need" means a situation where prohibiting the operation of the facility would be detrimental to a client's physical health, mental health, safety, or welfare. Circumstances constituting urgent need include but are not limited to the following:
- (A) A change in facility location when clients are in need of services from the same operator at the new location.
 - (B) A change of facility ownership when clients are in need of services from a new operator.
- ⁴⁰
(49) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.

Note: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1501, 1501, 1503, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1525, 1525.5, 1526, 1527, 1529, 1530, 1530.5, 1531, 1533, 1534, 1537, 1550 and 1551, 1502, 1596.72, 1596.73, 1596.81, 1596.74, 1596.75, 1596.750, 1596.76, 1596.77, 1596.770, 1596.78, 1596.79, 1596.790, 1596.791, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

Article 2. LICENSE

10115680005 LICENSE REQUIRED10115680005

- (a) Unless a facility is exempt from licensure as specified in Section 80007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a license from the licensing agency.

10115780006 OPERATION WITHOUT A LICENSE10115780006

- (a) If an ⁸unlicensed facility is providing care and supervision as defined in Section 80001 (a)(10), the facility is in violation of Section 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 80007. 101159
- (b) If the facility is alleged to be in violation of Section 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1538. 96.853
- (1) *Health and Safety Code Section 1538(c) provides in part:*

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

- (c) If the facility is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.

10115880007 EXEMPTION FROM LICENSURE10115880007

- (a) The community care facility regulations contained in this division shall not apply to any of the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1202 of the Health and Safety Code.
 - (3) Any family day care home providing care for the children of only one family, in addition to the operator's own children.
 - (4) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.
 - (5) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

101156 License Required

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1505~~, ~~1508~~, ~~1509~~, ~~1513~~ and ~~1531~~, 1596.80, 1596.805, 1596.84, 1596.85, Health and Safety Code.

101157 Operation Without a License

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1508~~, ~~1533~~ and ~~1536~~ 1596.792, 1596.80, 1596.89 and 1596.890, Health and Safety Code.

~~80007~~ 101158~~80007~~ EXEMPTION FROM LICENSURE (Continued)101158
~~80007~~

- (6) Any school dormitory or similar facility where all of the following conditions exist:
- (A) The school is certificated/registered by the State Department of Education.
 - (B) The school and the school dormitory are on the same grounds.
 - (C) All children accepted by the school are six years of age or older.
 - (D) The program operates only during normal school terms unless the academic program runs year-round.
 - (E) The school's function is educational only.
 - (F) The school program is not designated as providing rehabilitative or treatment services.
 - (G) The school's function does not promote intent to provide community care services, and the facility does not accept children who are in need of such services, including but not limited to children with developmental disabilities, mental disorders or physical handicaps; juveniles declared dependents of the court under Welfare and Institutions Code Section 300, and juveniles declared wards of the court under Welfare and Institutions Code Section 601 and 602.
 - (H) The facility does not receive any public funds designated for care including but not limited to AFDC-FC and SSI/SSP. The facility shall be permitted to receive public funds intended for educational programs.
 - (I) No public or private agency, including but not limited to county welfare department and probation offices, provides social services to children in the facility.
- (7) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, which provides no element of care and supervision, as defined in Section ~~80001(a)(10)~~ 101152 8.
- (8) Any recovery house or other similar facility providing a group living arrangement for persons recovering from alcoholism or drug addiction where the facility provides no element of care and supervision as defined in Section ~~80001(a)(10)~~ 101152 8.
- (9) Any cooperative arrangement between parents for the day care of their children by one or more of the parents where no payment for the day care is involved, including but not limited to the exchange of child day care services between two or more families.
- (10) Any care and supervision of persons by a relative, guardian or conservator.
- (11) Any care and supervision of persons from only one family by a close friend of the parent, guardian or conservator, provided that such arrangement is not for financial profit and does not exceed 10 hours per week.
- (A) Provision of longer hours of care shall not be precluded when provided for a brief period of time for reasons, including but not limited to family emergencies, vacation, and military leave.
- (12) Any facility exclusively used by a licensed homefinding agency and issued a certificate of approval by that agency.

~~101158~~~~80007~~

EXEMPTION FROM LICENSURE (Continued)

~~101158~~~~80007~~

- (A) Such facilities shall not be required to obtain a license, but shall be in compliance with all other requirements set forth in this division. The facility's compliance with requirements shall be monitored through and assured by the homefinding finding agency. For the purposes of this section, an exclusive-use facility shall mean a nonlicensed residential facility that has been certified by a licensed homefinding agency as conforming to the regulations pertaining to the small family home category. A facility in the exclusive use of a licensed homefinding agency shall accept only those children placed by that agency which certified the home.

(13) *Any similar facility as determined by the Director.*

~~101159~~~~80008~~

LICENSING OF INTEGRAL FACILITIES

~~101159~~~~80008~~

- (a) Upon written application from the licensee, the licensing agency shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses provided that all of the following requirements are met:
- (1) Separate buildings or portions of the facility are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the licensing agency.

~~101161~~~~80010~~

LIMITATIONS ON CAPACITY AND AMBULATORY STATUS

~~101161~~~~80010~~

- (a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license, including the capacity limitation.
- (b) Facilities or rooms approved for ambulatory clients only shall not be used by nonambulatory clients.
- (1) Clients whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory clients.
 - (2) The licensing agency shall have the authority to require clients who use ambulatory sections of the facility to demonstrate that they are ambulatory.

~~101163~~~~80012~~

FALSE CLAIMS

~~101163~~~~80012~~

- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

101158 Exemption from Licensure

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1505~~ 1596.792 and ~~1506~~, Health and Safety Code.

101159 Licensing of Integral Facilities

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: ~~1508~~, ~~1509~~ and ~~1513~~ 1596.80 and 1596.73, Health and Safety Code.

101161 Limitations on Capacity and Ambulatory Status

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, and 1596.95, Health and Safety Code.

Article 3. APPLICATION PROCEDURES

101168

80017 APPLICANT QUALIFICATIONS

101168

80017

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, handicap, marital status or sexual orientation.

101169

80018 APPLICATION FOR LICENSE

101169

80018

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency.
- (b) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (c) The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of facility.
 - (2) Name, and residence and mailing addresses of applicant.
 - (A) If the applicant is a partnership, the name, and principal business address of each partner.
 - (B) If the applicant is a corporation or association, the name, title and principal business address of each officer and member of the governing board.
 - (C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.
 - (D) If the applicant is a corporation or association, a copy of the articles of incorporation, constitution and by-laws.
 - (3) Name and address of owner of facility premises if applicant is leasing or renting.
 - (4) The category of facility to be operated.
 - (5) Maximum number of persons to be served.
 - (6) Age range, sex and the categories of persons to be served, including but not limited to persons with developmental disabilities, mental disorders, physically handicapped and/or nonambulatory persons.
 - (7) Hours or periods of facility operation.
 - (8) Name of administrator, if applicable.
 - (9) Information required by Health and Safety Code Section 1520(d).

96.95

- (A) *Health and Safety Code Section 1520(d) provides:*

96.95

Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

101168 Applicant Qualifications

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1520~~ and ~~1523~~ 1596.72, 1596.73, and 1596.81, Health and Safety Code.

101169**80018 APPLICATION FOR LICENSE** (Continued)101169**80018**

- (10) Information required by Health and Safety Code Section 1520(e).

(A) *Information regarding any revocation or temporary suspension action taken or in the process of being taken against a license held or previously held by the applicant or while the applicant served in any of the capacities specified in (9) above.*

- (11) A plan of operation as specified in Section ~~80022~~.

- (12) Fingerprint cards as specified in Section ~~80019~~.

- (13) The bonding affidavit specified in Section ~~80025~~(a).

- (14) A health screening report on the applicant as specified in Section ~~80065~~(g).

- (15) Such other information as may be required pursuant to Section 1520(f) of the Health and Safety Code.

(A) *Health and Safety Code Section 1520(f) provides:*

Such other information as may be required by the state department for the proper administration and enforcement of this chapter.

- (d) The application shall be signed by the applicant.

- (1) If the applicant is a partnership, the application shall be signed by each partner.

- (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.

- (e) The application shall be filed with the licensing agency which serves the geographical area in which the facility is located.

101170**80019 CRIMINAL RECORD CLEARANCE**101170**80019**

- (a) The licensing agency shall conduct a criminal record review of all persons specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

- (1) *Section 1522(a) of the Health and Safety Code provides in part:*

Before issuing a license to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e) of Health and Safety Code Section 1522.

101169 Application for License

Authority cited: Section ~~1530~~, 1596.81, Health and Safety Code. Reference: Sections 1596.95, 1596.83, and 1596.856 ~~1501~~, ~~1520~~, ~~1522~~, ~~1528~~, ~~1531~~, and ~~1560~~, Health and Safety Code.

~~101170~~~~80019~~ CRIMINAL RECORD CLEARANCE (Continued)~~101170~~~~80019~~(2) *Section 1522(b) of the Health and Safety Code provides in part:*

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) *Adults responsible for administration or direct supervision of staff.*
 - (B) *Any person, other than a client, residing in the facility.*
 - (C) *Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.*
 - (D) *Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct on site supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.*
 - (E) *Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (A) and (B), are exempt from fingerprinting requirements.*
 - (F) *If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.*
- (b) A fingerprint clearance shall be received by the licensing agency on the applicant, administrator and all adults residing in the facility prior to issuing a license.
- (c) All persons subject to criminal record review shall, prior to employment, residence or initial presence in the facility be fingerprinted and sign a statement regarding prior criminal convictions as specified in Section ~~80065~~ ¹⁰¹²¹⁶ (i).
- (1) Completed fingerprint card shall be submitted to the licensing agency within 20 days following employment, residence or initial presence in the facility.
- (2) *Section 1522(c) of the Health and Safety Code provides in part:*

Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the community care facility.

~~80019~~ 101170~~80019~~ CRIMINAL RECORD CLEARANCE (Continued)

101170

~~80019~~

- (d) In determining whether individuals must submit fingerprint card(s) as specified in Health and Safety Code Section 1522(b), the licensing agency shall consider the following:
- ~~96.871~~
- (1) Anticipated type and degree of contact with the clients.
 - (2) Supervision received by the employee or volunteer.
 - (3) Duties of the employee or volunteer.
 - (4) Whether the facility constitutes the legal residence or the place an adult, other than the client, lives the majority of the time.
- (e) The reasons for any exemption granted shall be in writing and kept by the licensing agency.
- (f) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less, the licensing agency shall take the following actions:
- ~~96.871~~
- (1) For initial applicants, denial of the application.
 - (2) For current licensees, denial of the renewal application or institution of other legal remedies, including but not limited to revocation of the license.
 - (3) For current or prospective employees, denial of the application or revocation of the license if the person continues to provide services and/or reside at the facility.
 - (4) For convicted persons residing in the facility including spouses of the applicant, licensee, or employee, denial of the application or revocation of the license if the person continues to provide services and/or reside at the facility.
- (5) Section 1522(c) of the Health and Safety Code provides in part:
- If it is determined by the Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 273a or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The Department of Social Services may subsequently grant an exemption pursuant to subdivision (e).*
- (6) Sections 273a and 273d of the Penal Code provide:
- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

101170**80019 CRIMINAL RECORD CLEARANCE** (Continued)101170**80019**

- (B) *Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.*
- (C) *Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.*
- (7) *If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (e). The Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.*
- (g) After a review of the criminal record transcript, the licensing agency or the Department shall have the authority to grant an exemption from (f) above if such person requests an exemption in writing and presents evidence satisfactory to the Department or licensing agency that he/she has been rehabilitated and presently is of such good character as to justify the issuance of the license or the provision of service in the facility.
- (1) The licensing agency shall have the authority to consider factors including but not limited to the following as evidence of good character and rehabilitation:
- (A) The nature of the crime.
 - (B) Period of time since the crime was committed and number of offenses.
 - (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (D) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (E) Granting by the Governor of a full and unconditional pardon.
 - (F) Character references.
 - (G) A certificate of rehabilitation from a superior court.

~~101170~~~~80019~~ CRIMINAL RECORD CLEARANCE (Continued)~~101170~~~~80019~~

(2) Section 1522(e) of the Health and Safety Code provides in part:

However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in paragraph (1) of Section 273a or Section 273d of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(A) Section 667.5(c) of the Penal Code provides in part:

For the purpose of this section, "violent felony" shall mean any of the following:

- 1. Murder or voluntary manslaughter.*
- 2. Mayhem.*
- 3. Rape as defined in subdivision (2) of Section 261.*
- 4. Sodomy by force, violence, duress, menace, or threat of great bodily harm.*
- 5. Oral copulation by force, violence, duress, menace, or threat of great bodily harm.*
- 6. Lewd acts on a child under 14 as defined in Section 288.*
- 7. Any felony punishable by death or imprisonment in the state prison for life.*
- 8. Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5.*

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1596.871 1522 and 1564, Health and Safety Code.

101171**80020 FIRE CLEARANCE**101171**80020**

- (a) All facilities shall secure and maintain a fire clearance approved by the State Fire Marshal.

(1) *The State Fire Marshal requires that the request for fire clearance be made through, and the approval maintained by, the licensing agency.*

- (b) The applicant shall notify the licensing agency if the facility plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the State Fire Marshal, can be obtained prior to the acceptance of such clients:

(1) Persons 65 years of age and over.

(2) Persons who are nonambulatory, as defined in Section ~~80001~~ ¹⁰¹¹⁵² (a)(36).

(A) *Persons who use supportive restraints pursuant to Section 80072(a)(8) are nonambulatory.*

101172**80021 WATER SUPPLY CLEARANCE**101172**80021**

- (a) All community care facilities where water for human consumption is from a private source shall meet the following requirements:

(1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.

(2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the clients, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial Licensing	Not required unless evidence supports the need for such analysis to protect clients.
7 through 15	Initial licensing	Annually
16 through 24	Initial licensing	Semiannually
25 or more	Initial licensing	Quarterly

101173**80022 PLAN OF OPERATION**101173**80022**

- (a) Each licensee shall have and maintain on file a current, written, definitive plan of operation.

- (b) The plan and related materials shall contain the following:

(1) Statement of purposes, and program methods and goals.

(2) Statement of admission policies and procedures regarding acceptance of clients.

101171 Fire Clearance

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: ~~1501~~, ~~1520~~, ~~1528~~, and ~~1531~~ 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

101172 Water Supply Clearance

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1520~~, ~~1528~~, and ~~1531~~ 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

101173**80022 PLAN OF OPERATION** (Continued)101173**80022**

- (3) A copy of the admission agreement.
- (4) Administrative organization, if applicable.
- (5) Staffing plan, qualifications and duties, if applicable.
- (6) Plan for inservice education of staff if required by regulations governing the specific facility category.
- (7) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and a designation of the rooms to be used for nonambulatory clients, if any.
- (8) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the clients.
 - (A) The sketch shall include the dimensions of all areas which will be used by the clients.
- (9) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.
- (10) Transportation arrangements for clients who do not have independent arrangements.
- (11) Rate setting policy including, but not limited to, policy on refunds.
- ~~(12) Arrangements for safeguarding clients' cash resources, personal property and/or valuables if applicable.~~
- ²
~~(13)~~ Consultant and community resources to be utilized by the facility as part of its program.
- (c) Any changes in the plan of operation which affect the services to clients shall be subject to licensing agency approval and shall be reported as specified in Section ~~80061~~ 101212.
- (d) The facility shall operate in accordance with the terms specified in the plan of operation.

101174**80023 DISASTER AND MASS CASUALTY PLAN**101174**80023**

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the licensing agency and shall include:
 - (1) Designation of administrative authority and staff assignments.
 - (2) Contingency plans for action during fires, floods, and earthquakes, including but not limited to the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for clients.

101173 Plan of Operation

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501~~, ~~1520~~, ~~1528~~ and ~~1531~~
1596.72, 1596.73, 1596.81, 1596.95 and
1597.05, Health and Safety Code.

101174101174**80023 DISASTER AND MASS CASUALTY PLAN (Continued)****80023**

- (D) Arrangements for supervision of clients during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.
- (c) The licensee shall instruct all clients, age and abilities permitting, all staff, and/or members of the household in their duties and responsibilities under the plan.
- (d) Disaster drills shall be conducted at least every six months.

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1501, 1520, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

~~101174~~~~80023~~**DISASTER AND MASS CASUALTY PLAN** (Continued)~~101174~~~~80023~~

- (1) Completion of such drills shall not require travel away from the facility grounds or contact with local disaster agencies.

- (2) The drills shall be documented and the documentation maintained in the facility for at least one year.

~~101175~~~~80024~~**WAIVERS AND EXCEPTIONS**

[See end previous page for Authority and Reference citations.]

~~101175~~~~80024~~

- (a) Unless prior written licensing agency approval is received as specified in (b) below, all licensees shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the contact of experimental or demonstration projects under the following circumstances:
- (1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any facility client.
- (2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.
- (3) *In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.*
- (4) The licensing agency shall provide written approval or denial of the request.

101175 Waivers and Exceptions

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections 1596.72, 1596.73, and 1596.81,
Health and Safety Code.

101178

101178

80027 INITIAL APPLICATION REVIEW

80027

- (a) If the applicant has not submitted all materials specified in Section ¹⁰¹¹⁶⁹~~80018~~ within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant that the application is incomplete.

- (1) If the applicant does not complete the application within 30 days after such notice, the application shall be deemed withdrawn provided that the licensing agency has not denied or taken action to deny the application.

(A) The above requirement shall not apply to facilities under construction.

- (b) The licensing agency shall cease review of any application as specified in Section 1520.3 of the Health and Safety Code.

96.851

- (1) *Health and Safety Code Section 1520.3 provides in part:*

If an application for a license or special permit indicates, or the licensing agency determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1, commencing with Section 1200 or Chapter 2, commencing with Section 1250 and such prior license was revoked within the preceding two years, the following provisions shall apply:

(A) *The licensing agency shall cease review of the application.*

(B) *Application review shall not recommence until two years have elapsed from the date of such revocation.*

(C) *Such cessation of review shall not constitute denial of the application.*

- (c) *The licensing agency shall complete the following as part of the application review process:*

- (1) *A site visit to the proposed facility and a determination of the qualifications of the applicant.*

- (2) *A determination that the applicant has secured an appropriate fire clearance from the State Fire Marshal, if required.*

- (3) *A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this division as specified in Health and Safety Code Section 1520.*

- (4) *A determination that the facility complies with the provisions of the Community Care Facilities Act and the regulations in this division.*

101179

101179

80028 CAPACITY DETERMINATION

80028

- (a) A license shall be issued for a specific capacity.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:

- (1) The fire clearance specified in Section ¹⁰¹¹⁷¹~~80020~~.

101178 Initial Application Review

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1520~~, ~~1520.3~~, ~~1528~~ and ~~1531~~ 1596.83, 1596.85 and 1596.95, Health and Safety Code.

101179**80028 CAPACITY DETERMINATION (Continued)**101179
80028

- (2) The licensee's/administrator's ability to comply with applicable law and regulation.
- (3) Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs.
- (4) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.
- (5) Number of available staff to meet the care and supervision needs of the clients.
- (6) Any restrictions pertaining to the specific category of facility.
- (c) The licensing agency shall be authorized to issue a license for fewer clients than is requested when the licensing agency determines that:
 - (1) The licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (d) When the license is issued for fewer clients than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 80040.
- (e) The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.
 - (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 80042.
- (f) The licensing agency shall be authorized to restrict care to specific individuals.
 - (1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.
 - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 80040.

101180**80029 WITHDRAWAL OF APPLICATION**101191101180
80029

- (a) An applicant shall have the right to withdraw an application for an initial or renewal license.

101179 Capacity Determination

Authority cited: Section ~~1530~~ 1596.81, Health
and Safety Code. Reference: Sections ~~1507~~,
~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81
and 1597.05, Health and Safety Code.

~~101180~~~~80029~~ WITHDRAWAL OF APPLICATION (Continued)~~101180~~~~80029~~

(1) Such withdrawal shall be in writing.

(b) *Health and Safety Code Section 1553 provides in part:*

The licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

~~101181~~~~80030~~ PROVISIONAL LICENSE~~101181~~~~80030~~

(a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections ~~80031~~ or ~~80040~~ on a completed application for an initial license, if it determines that all of the following circumstances exist:

(1) The facility is in substantial compliance with applicable law and regulation.

(2) An urgent need for licensure exists.

(b) The capacity of a provisional license shall be limited to the number of clients for whom urgent need has been established, or the capacity established for the specific facility, whichever is less.

(c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.

(d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

(e) If, during the provisional license period, the licensing agency discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.

(f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

~~101182~~~~80031~~ ISSUANCE OF LICENSE~~101182~~~~80031~~

(a) The licensing agency shall issue a license to an applicant after a completed application has been compiled and upon determination that all licensing requirements have been met.

(b) The licensing agency shall notify the applicant in writing of the issuance of the license.

(c) No limitation shall be imposed on the licensee or printed on the license solely on the basis that a licensee is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

(1) *Whenever possible, the licensee shall not use corporal punishment on his/her own children in the presence of the child(ren) in placement.*

101180 Withdrawal of Application

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1520~~, ~~1528~~ and ~~1553~~ 1596.854, Health and Safety Code.

101181 Provisional License

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Section 1596.84 ~~1525.5~~, Health and Safety Code.

101182 Issuance of License

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1509~~, ~~1520~~, ~~1520.5~~, ~~1525~~ and ~~1528~~ 1596.72, 1596.73, 1596.81 and 1596.95, Health and Safety Code.

101184
~~80033~~

APPLICATION FOR RENEWAL OF A LICENSE

101184
~~80033~~

- (a) An application for the renewal of a license shall be filed on a form provided by the licensing agency not less than thirty (30) days prior to the license expiration date or at the time of initial application.
- (1) *Health and Safety Code Section 1524 provides that failure to make application for renewal within the prescribed time limit shall result in expiration of the license and the home shall be unlicensed.*
- (b) The renewal license shall be granted if a licensee files a renewal application within the time specified in (a) above unless the application has been denied, as specified in Section ~~80041~~ 101192.
- (c) Pending the issuance of a renewal license pursuant to (b) above, the current license shall remain in effect.

101185
~~80034~~

SUBMISSION OF NEW APPLICATION

101185
~~80034~~

- (a) A licensee shall file a new application as required by Section ~~80018~~ 101169 whenever there is a change in conditions or limitations described on the current license, or other changes including but not limited to the following:
- (1) Any change in the location of the facility.
- (2) Any change of licensee, including but not limited to the following when the licensee is a corporation.
- (A) Sale or transfer of the majority of stock.
- (B) Separating from a parent company.
- (C) Merger with another company.
- (3) Any change in facility category.
- (4) Any increase in capacity.

101184 Application for Renewal of a License
Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1520~~, ~~1524~~, ~~1525~~ and ~~1528~~
1596.72, 1596.73, 1596.81 and 1596.95,
Health and Safety Code.

101185~~80034~~ SUBMISSION OF NEW APPLICATION (Continued)101185~~80034~~

- (A) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of an appropriate fire clearance.
- (5) A permanent change in any client from ambulatory to nonambulatory status.
- (b) A new application as required by Section ~~80018~~¹⁰¹¹⁶⁹ shall be filed whenever an applicant fails to complete a new application within the time limit required by Section ~~80027~~¹⁰¹¹⁷⁸(a) if the applicant chooses to continue the application process.
- (c) A new application as required by Section ~~80018~~¹⁰¹¹⁶⁹ shall be filed whenever a licensee fails to file a renewal application within the time limit required by Section ~~80038~~¹⁰¹¹⁸⁴(a).

Authority Cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81 ~~1501~~, 1520, 1528 and 1531, Health and Safety Code.

Article 4. ADMINISTRATIVE ACTIONS

101191

~~80040~~ DENIAL OF INITIAL LICENSE

101191

~~80040~~

- (a) Except as specified in Section ~~80030~~¹⁰¹¹⁸¹, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.

- (1) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

- (A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (B) Section 273(a) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

- (C) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in the county jail for not more than one year.

10119110119180040 DENIAL OF INITIAL LICENSE (Continued)80040

(D) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

1. *Serious physical injury inflicted upon the child by other than accidental means.*
2. *Harm by reason of intentional neglect or malnutrition or sexual abuse.*
3. *Going without necessary and basic physical care.*
4. *Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.*
5. *Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.*

(b) If the application for an initial license is denied, the licensing agency shall mail the applicant a written notice of denial.

(1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.

(c) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Section 1526.

(1) 96.871 Health and Safety Code Section 1526 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the licensing agency shall notify the applicant in writing. Within 15 days after the licensing agency mails the notice, the applicant may present his/her written petition for a hearing to the licensing agency. Upon receipt by the licensing agency of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1596.856, 1596.95 and 1597.05 1520, 1525, 1526 and 1528, Health and Safety Code.

10119280041 DENIAL OF A RENEWAL LICENSE10119280041

- (a) The licensing agency shall have the authority to deny an application for a renewal license under the following circumstances:

(1) The licensee is not in substantial compliance, as defined in Section 101151 38 80001(a)(47), with applicable law and regulation at the time of the renewal.

(2) Failure to substantially comply with licensing requirements has resulted in the Department's action to suspend or revoke the license or to seek other remedies as provided by law.

(3) The licensee has failed to pay any civil penalty assessments pursuant to Section 101205 80054 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

- (b) If the application for a renewal license is denied, the licensing agency shall mail the licensee a written notice of denial.

(1) The notification shall inform the licensee of and set forth the reasons for the denial, and shall advise the licensee of the right to appeal.

- (c) The licensee shall have the right to appeal the denial of the application for renewal pursuant to Health and Safety Code Section 1526.

96.871
(1) *Health and Safety Code Section 1526 provides in part:*

Immediately upon the denial of any application for a license or for a special permit, the licensing agency shall notify the applicant in writing. Within 15 days after the licensing agency mails the notice, the applicant may present his/her written petition for a hearing to the licensing agency. Upon receipt by the licensing agency of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

- (d) When a renewal application is denied and the licensee appeals the denial, the licensing agency shall, upon written request from the licensee within the 15-day period, issue a license pending adoption by the director of a decision on the denial action.

- (e) An application for renewal licensure shall not be denied solely on the basis that the licensee is a parent who has administered or will continue to administer corporal punishment not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

(1) *Section 11165, subdivision (g) of the Penal Code states:*

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

101192**80041 DENIAL OF A RENEWAL LICENSE (Continued)**101192**80041**

(2) Section 273(a) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(3) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in the county jail for not more than one year.

(4) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

- (A) *Serious physical injury inflicted upon the child by other than accidental means.*
- (B) *Harm by reason of intentional neglect or malnutrition or sexual abuse.*
- (C) *Going without necessary and basic physical care.*
- (D) *Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.*
- (E) *Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.*

Authority cited: Section 1596.81 ~~1530~~, Health and Safety Code. Reference: Sections 1596.856, 1596.95, and 1597.05 ~~1520~~, ~~1524~~, ~~1525~~, ~~1526~~ and ~~1528~~, Health and Safety Code.

~~80042~~ 101193

REVOCATION OR SUSPENSION OF LICENSE

~~80042~~ 101193

96.885

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Section 1550.

- (1) *Health and Safety Code Section 1550 specifies the following grounds:*

The state department may suspend or revoke any license, registration, or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter:

- (A) *Violation by the licensee, registrant, or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.*
- (B) *Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.*
- (C) *Conduct in the operation or maintenance, or both the operation and maintenance, of a community care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.*
- (D) *The conviction of a licensee, or other person mentioned in Section 1522, at any time during licensure, of a crime as defined in Section 1522.*

The Director may temporarily suspend any license prior to any hearing when, in the opinion of the Director, such action is necessary to protect clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The Director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the Director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the Director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the Director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Section 1551.

- (1) *Health and Safety Code Section 1551 provides in part:*

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) *Chapter 5 commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in part:*

101193**80042 REVOCATION OR SUSPENSION OF LICENSE (Continued)**101193**80042**

- (A) When the Director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action; shall concurrently serve the licensee with an accusation; and advise the licensee of the right to a hearing.
- (B) The licensee has the right to a hearing prior to the revocation or suspension of a license, except as provided below:
- (1) The Director may temporarily suspend any license prior to hearing when in his/her opinion such action is necessary to protect the clients in the facility from any physical or mental abuse or any other substantial threat to health or safety.
- (2) When the Director intends to temporarily suspend a license prior to a hearing, he/she shall notify the licensee of the temporary suspension and the effective date thereof, and concurrently serve the licensee with an accusation.
- (C) The licensee shall apply for a hearing under (B) above by sending a written notice of defense to the Director within 15 calendar days of the mailing date of the revocation or suspension notice.
- (D) The Director shall, within 15 days of receipt of the notice of defense, request the Office of Administrative Hearings to set the matter for hearing.
- (c) For a revocation and temporary suspension action, the director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the notice of defense.

101194**80043 LICENSEE/APPLICANT COMPLAINTS**101194**80043**

- (a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

101195**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY**101195**80044**

- (a) The Department or licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1533, 1534 and 1538.
- (1) Health and Safety Code Section 1533 provides in part:

Any duly authorized officer, employee, or agent of the state department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

101193 Revocation or Suspension of License

Authority cited: Section 1596.81 ~~1530~~,
Health and Safety Code. Reference:
Sections 1596.885 and 1596.886
~~1550~~ and ~~1551~~, Health and Safety Code.

101194 Licensee/Applicant Complaints

Authority Cited: Section 1596.81 ~~1530~~,
Health and Safety Code. Reference:
Sections 1596.72, 1596.73 and 1596.81
~~1501~~ and ~~1531~~, Health and Safety Code.

101195

80044

INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING
AGENCY (Continued)

101195

80044

(2) *Health and Safety Code Section 1534 provides in part:*

Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to insure the quality of care being provided.

(3) *Health and Safety Code Section 1538 provides in part:*

- (A) *Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter such facility pursuant to Section 9722 of the Welfare and Institutions Code. Any such notice shall be in writing, specifying to a reasonable extent the details of the alleged violation, and shall be signed by the complainant.*
- (B) *The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.*
- (C) *Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.*
- (D) *Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.*
- (b) The Department or licensing agency shall have the authority to interview clients, including children, or staff, and to inspect and audit client or facility records without prior consent.
- (1) The licensee shall make provisions for private interviews with any clients, including children, or any staff member; and for the examination of all records relating to the operation of the facility.
- (c) The Department or licensing agency shall have the authority to observe the physical condition of the client, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the client.

*Authority cited: Section 1596.81, 1530, Health and Safety Code.
Reference: Sections 1596.72, 1596.73, 1596.81, 1596.852 and
1596.853, 1501, 1531, 1533, 1534, 1538, Health and Safety Code.*

~~101196~~~~80045~~ EVALUATION VISITS~~101196~~
~~80045~~

- (a) Community care facilities shall be evaluated as specified in Health and Safety Code Sections ~~1534~~, 1596.98, 1597.08, and 1597.09.

(1) *Health and Safety Code Section 1534 provides:*

Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to insure the quality of care being provided.

The state department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility. Upon finding of noncompliance, the state department may levy a civil penalty not to exceed fifty dollars (\$50) per day which shall be paid to the state department each day until the state department finds the facility in compliance. If the facility fails to comply within the established length of time, then the amount collected from the facility shall be forfeited to the state department. In such case, the department may also initiate action against the facility in accordance with the provisions of Article 5 (commencing with Section 1550) of this chapter.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

- (b) The licensing agency shall have the authority to make any number of other visits to a facility in order to determine compliance with applicable law and regulation.
- (c) Provisions for frequency of evaluation visits to child care centers are contained in Section 81045.

Authority Cited: Section 1596.81 ~~1530~~, Health and Safety Code. Reference: Sections 1596.98, 1597.08, 1597.09, 1596.852 ~~1528~~, ~~1533~~, ~~1534~~ and ~~1538~~, Health and Safety Code.

Article 5. ENFORCEMENT PROVISIONS

10120280051 SERIOUS DEFICIENCIES10120280051

- (a) *The following are examples of regulations which if not complied with nearly always result in a serious deficiency.*
- (1) *Section 80010 relating to limitations on the capacity or ambulatory status of facility clients.*
 - (2) *Section 80019 relating to criminal record clearance.*
 - (3) *Section 80020 relating to fire clearance.*
 - (4) *Section 80021 relating to water supply.*
 - (5) *Section 80072 relating to client rights.*
 - (6) *Section 80073 relating to telephone service.*
 - (7) *Section 80075(h) through (j) relating to storing and dispensing medications.*
 - (8) *Section 80076 relating to food storage, preparation and service.*
 - (9) *Section 80087 relating to safety of client accommodations.*
 - (10) *Section 80088(e)(1), (2), and (3) relating to hot water temperature and toilet facilities.*
 - (11) *Section 80088(f) relating to storage and disposal of solid wastes.*
 - (12) *Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 80001(a)(43).*

10120380052 DEFICIENCIES IN COMPLIANCE10120380052

- (a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, operator, or other person in charge of the facility shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.
- (c) The evaluator shall provide notice of deficiency to the licensee by one of the following:
 - (1) Personal delivery to the licensee, at the completion of the visit.

101202 Serious Deficiencies

Authority cited: Section 1596.81 ~~1530~~,

Health and Safety Code. Reference:

Sections 1596.72, 1596.73, 1596.81, 1596.852,

1596.853 and 1596.98 ~~1501~~, ~~1531~~, and

~~1534~~, Health and Safety Code.

101203**80052 DEFICIENCIES IN COMPLIANCE** (Continued)101203
80052

- (2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility at the completion of the visit.
 - (a) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
- (3) If the licensee refuses to accept the notice or the notice cannot be completed during the visit, mailing the notice to the licensee.
- (d) The notice of deficiency shall be in writing and shall include the following:
 - (1) Citation of the statute or regulation which has been violated.
 - (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the facility in which it occurred.
 - (3) The plan developed, as specified in (b) above, for correcting each deficiency.
 - (4) A date by which each deficiency shall be corrected.
 - (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
 1. The potential hazard presented by the deficiency.
 2. The number of clients affected.
 3. The availability of equipment or personnel necessary to correct the deficiency.
 4. The estimated time necessary for delivery, and for any installation, of necessary equipment.
 - (B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.
 - (C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions which must be taken within 30 calendar days to begin correction.
 - (D) The evaluator shall have the authority to require correction of the deficiency within 24 hours or less if there is an immediate threat to the health or safety of the clients.
 - (5) The amount of penalty being assessed and the date the penalty begins.
 - (6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

*Authority cited: Section 1596.81 1530, Health and Safety Code.
Reference: Section 1596.98 1534, Health and Safety Code.*

~~101204~~~~80053~~**FOLLOW-UP VISITS TO DETERMINE COMPLIANCE**~~101204~~~~80053~~

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
 - (1) At a minimum, a follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
 - (2) No penalty shall be assessed unless a follow-up visit is conducted as specified in (a) and (a)(1) above.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.
- (c) A notice of penalty shall be in writing and shall include:
 - (1) The amount of penalty assessed, and the date the payment is due.
 - (2) The name and address of the agency responsible for collection of the penalty.

~~101205~~~~80054~~**PENALTIES**~~101205~~~~80054~~

- (a) A penalty of \$50 per day shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (b) A penalty of \$25 per day shall be assessed for deficiencies, other than serious deficiencies, are not corrected by the date specified in the notice of deficiency.
- (c) The maximum daily penalty for all deficiencies shall not exceed \$50.
- (d) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated, but in no event shall a penalty be assessed for more than 30 calendar days.
- (e) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.
 - (1) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (f) If necessary, a site visit shall be made immediately or within five working days to confirm deficiency has been corrected.
 - (1) If the deficiency has not been corrected, civil penalties shall continue to accrue.

101204 Follow-up Visits to Determine Compliance

Authority cited: Section 1596.81 ~~1530~~, Health
and Safety Code. Reference: Sections 1596.852,
1596.853 and 1596.98 ~~1533~~ and ~~1534~~,
Health and Safety Code.

101205~~80054~~ PENALTIES (Continued)101205~~80054~~

- (g) All penalties shall be due and payable upon receipt of notice for payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (h) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (g) above.

101206~~80055~~ ADMINISTRATIVE REVIEW101206~~80055~~

- (a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty within 10 working days of receipt of such notice(s).
 - (1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.
- (b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).
- (c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.
- (d) The reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

101207~~80056~~ EXEMPTION FROM CIVIL PENALTIES101207~~80056~~

- (a) Civil penalties shall not be assessed against any governmental entity, including a state, or city, holding a community care facility license.

101205 Penalties

Authority cited: Section 1596.81 ~~1530~~, Health and Safety Code. Reference: Section 1596.98 ~~1534~~, Health and Safety Code.

101206 Administrative Review

Authority cited: Section 1596.81 ~~1530~~, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81 ~~1534~~, Health and Safety Code.

101207 Exemption From Civil Penalties

Authority cited: Section' 1596.81 ~~1530~~, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81 ~~1534~~, Health and Safety Code.

Article 6. CONTINUING REQUIREMENTS

101212
~~80061~~

REPORTING REQUIREMENTS

101212
~~80061~~

- (a) Each licensee or applicant shall furnish to the licensing agency reports as required by the Department, including, but not limited to, those specified in this section.
- (b) Upon the occurrence, during the operation of the facility, of any of the events specified in (1) below, a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in (2) below shall be submitted to the licensing agency within seven days following the occurrence of such event.
 - (1) Events reported shall include the following:
 - (A) Death of any client from any cause.
 - (B) Any injury to any client which requires medical treatment.
 - (C) Any unusual incident or client absence which threatens the physical or emotional health or safety of any client.
 - (D) Any suspected physical or psychological abuse of any client.
 - (E) Epidemic outbreaks.
 - (F) Poisonings.
 - (G) Catastrophes.
 - (H) Fires or explosions which occur in or on the premises.
 - (2) Information provided shall include the following:
 - (A) Client's name, age, sex, and date of admission.
 - (B) Date and nature of event.
 - (C) Attending physician's name, findings, and treatment, if any.
 - (D) Disposition of the case.
- (c) The items below shall be reported to the licensing agency within 10 working days following the occurrence.
 - (1) The organizational changes specified in Section ~~80034~~¹⁰¹¹⁸⁵(a)(2).
 - (2) Any change in the licensee's or applicant's mailing address.

101212~~80061~~ REPORTING REQUIREMENTS (Continued)101212~~80061~~

- (3) Any change of the chief executive officer of a corporation or association.
- (A) Such notification shall include the new chief executive officer's name and address.
- (B) Fingerprint cards shall be submitted as specified in Section ~~80019~~¹⁰¹¹⁷⁰(c)(1).
- (4) Any changes in the plan of operation which affect the services to clients.
- (d) The items specified in (b)(1)(A) through (H) above shall also be reported to the client's authorized representative, if any.
- (e) The items specified in (b)(1)(E) through (G) above shall also be reported to the local health officer when appropriate pursuant to Title 17, California Administrative Code, Sections 2500, 2502 and 2503.

(1) Title 17, California Administrative Code, Section 2500 requires:

It shall be the duty of every physician, practitioner, dentist, coroner, every superintendent or manager of a dispensary, hospital, clinic, or any other person knowing of or in attendance on a case or suspected case of any of the following diseases or conditions, to notify the local health authority immediately. A standard type report form has been adopted and is available for this purpose.

<i>Amebiasis</i>	<i>Meningitis, Meningococcal or</i>
<i>Anthrax</i>	<i>Meningococcemia</i>
<i>Botulism</i>	<i>*Mumps</i>
<i>Brucellosis (Undulant Fever)</i>	<i>Paratyphoid Fever, A, B and C</i>
<i>Chancroid</i>	<i>(See Salmonella infections)</i>
<i>Cholera</i>	<i>Pertussis (Whooping Cough)</i>
<i>Coccidioidomycosis</i>	<i>Plague</i>
<i>Conjunctivitis, Acute</i>	<i>Poliomyelitis, Acute Anterior</i>
<i>Infectious of the Newborn</i>	<i>Psittacosis</i>
<i>(Gonorrheal Ophthalmia,</i>	<i>Q Fever</i>
<i>Ophthalmia Neonatorium)</i>	<i>Rabies, Human or Animal</i>
<i>Dengue</i>	<i>Relapsing Fever</i>
<i>Diarrhea of the Newborn</i>	<i>Rheumatic Fever, Acute</i>
<i>Diphtheria</i>	<i>Rocky Mountain Spotted Fever</i>
<i>Dysentery, Bacillary (See</i>	<i>Salmonella Infections</i>
<i>Shigella infections)</i>	<i>(exclusive of Typhoid Fever)</i>
<i>Encephalitis, Acute</i>	<i>*Scarlet Fever</i>
<i>Epilepsy</i>	<i>Shigella Infections</i>
<i>*Food Poisoning (other</i>	<i>Smallpox (Variola)</i>
<i>than Botulism)</i>	<i>*Streptococcal Infections,</i>
<i>German Measles (Rubella)</i>	<i>Hemolytic (including Scarlet Fever,</i>
<i>Gonococcus Infection</i>	<i>and Streptococcal Sore Throat)</i>
<i>Granuloma Inguinale</i>	<i>Syphilis</i>
<i>Hepatitis, Infectious</i>	<i>Tetanus</i>
<i>Hepatitis, Serum</i>	<i>Trachoma</i>
<i>Leprosy (Hansen's Disease)</i>	<i>Trichinosis</i>
<i>Leptospirosis (including Weil's</i>	<i>Tuberculosis</i>
<i>Disease)</i>	<i>Tularemia</i>
<i>Lymphogranuloma Venereum</i>	<i>Typhoid Fever, Cases and Carriers</i>
<i>(Lymphogranuloma Inguinale)</i>	<i>Typhus Fever</i>
<i>Malaria</i>	<i>Viral Exanthem in Pregnant Women</i>
<i>*Measles (Rubeola)</i>	<i>Yellow Fever</i>

For outbreak reporting and reporting of occurrence of unusual and rare diseases see Sections 2502 and 2503.

~~101212~~~~80061~~

REPORTING REQUIREMENTS (Continued)

~~101212~~~~80061~~

Title 17, California Administrative Code, Section 2502 requires:

Any person having knowledge of any outbreak or undue prevalence of infectious or parasitic disease or infestation whether or not listed in Section 2500, shall promptly report the facts to the local health officer, who shall investigate the circumstances and if he finds that an epidemic or undue prevalence does in fact exist, he shall report the outbreak to the Director of the State Department of Public Health. The following are examples of diseases, outbreaks of which are to be so reported:

*Epidemic gastroenteritis
(other than food poisoning)
Epidemic keratoconjunctivitis
Fevers of unknown etiology
German measles
Impetigo*

*Infectious mononucleosis
Influenza, epidemic
Lymphocytic choriomeningitis
Pneumonia, infectious
Ringworm*

Title 17, California Administrative Code, Section 2503 requires:

Any person having knowledge of a case of an unusual disease not listed in Section 2500 shall promptly convey the facts to the local health officer. Examples are: glanders, herpangina, histoplasmosis, toxoplasmosis, echinococcosis, listeriosis, cat scratch fever, and rickettsialpox.

- (f) The item specified in (b)(1)(H) shall also be reported immediately to the local fire authority. In areas not having organized fire services a report shall be made to the State Fire Marshal within 24 hours.

~~101213~~~~80062~~

FINANCES

~~101213~~~~80062~~

- (a) The licensee shall meet the following financial requirements:
- (1) Development and maintenance of a financial plan which ensures resources necessary meet operating costs for care and supervision of clients.
 - (2) Maintenance of financial records.
 - (3) Submission of financial reports as required upon the written request of the department or licensing agency.
 - (A) Such request shall explain the necessity for disclosure.
 - (B) The licensing agency shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

101212 Reporting Requirements

Authority cited: Section 1596.81 ~~1530~~,
Health and Safety Code. Reference:
Sections 1596.72, 1596.73, and 1596.81
~~150T~~ and ~~153T~~, Health and Safety Code.

101213 Finances

Authority cited: Section 1596.81 ~~1530~~,
Health and Safety Code. Reference:
Sections ~~150T~~, ~~1520~~ and ~~153T~~ 1596.72,
1596.73 and 1596.81, Health and
Safety Code.

101214~~80063~~ ACCOUNTABILITY101214~~80063~~

- (a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed facility, and for the establishment of policies concerning its operation.
- (1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

101215~~80064~~ ADMINISTRATOR-QUALIFICATIONS AND DUTIES101215~~80064~~

- (a) The administrator shall have the following qualifications:
- (1) Attainment of at least 18 years of age.
- (2) Knowledge of the requirements for providing the type of care and supervision needed by clients, including ability to communicate with such clients.
- (3) Knowledge of and ability to comply with applicable law and regulation.
- (4) Ability to maintain or supervise the maintenance of financial and other records.
- (5) Ability to direct the work of others, when applicable.
- (6) Ability to establish the facility's policy, program and budget.
- (7) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.
- (b) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.
- (c) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section, and in applicable regulations in Chapters 2 through 7.

101216~~80065~~ PERSONNEL REQUIREMENTS101216~~80065~~

- (a) Facility personnel shall be competent to provide the services necessary to meet individual client needs and shall, at all times, be employed in numbers necessary to meet such needs.
- (b) The licensing agency shall have the authority to require any licensee to provide additional staff whenever the licensing agency determines and documents that additional staff are required for the provision of services necessary to meet client needs. The licensee shall be informed in writing of the reasons for the licensing agency's determination. The following factors shall be taken into consideration in determining the need for additional staff.
- (1) Needs of the particular clients.
- (2) Extent of the services provided by the facility.
- (3) Physical arrangements of the particular facility.
- (4) Existence of a state of emergency or disaster.

101214 Accountability

Authority Cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~ and ~~1531~~ 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101215 Administrator — Qualifications and Duties

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~ and ~~1531~~ 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101216101216~~80065~~ PERSONNEL REQUIREMENTS (Continued)~~80065~~

- (c) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility staffing plan.
- (d) The following facility personnel shall be at least 18 years of age:
 - (1) Persons who supervise employees and/or volunteers.
 - (2) Persons, including volunteers, who provide any element of care and supervision to clients.
- (e) The licensee shall provide for direct supervision of clients during participation in or presence at potentially dangerous activities or areas in the facility.
 - (1) An adult other than a client shall be present at all times while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim.
 - (2) Adults who supervise while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate.
- (f) All personnel shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.
 - (1) Principles of nutrition, food preparation and storage and menu planning.
 - (2) Housekeeping and sanitation principles.
 - (3) Provision of client care and supervision, including communication.
 - (4) Assistance with prescribed medications which are self-administered.
 - (5) Recognition of early signs of illness and the need for professional assistance.
 - (6) Availability of community services and resources.
- (g) All personnel, including the licensee, administrator and volunteers, shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.
 - (1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.
 - (2) A health screening report signed by the person performing such screening shall be made on each person specified above, and shall indicate the following:
 - (A) The person's physical qualifications to perform the duties to be assigned.

101216~~80065~~ PERSONNEL REQUIREMENTS (Continued)101216
~~80065~~

- (B) The presence of any health condition that would create a hazard to the person, clients or other staff members.
- (3) The good physical health of each volunteer who works in the facility shall be verified by:
- (A) A statement signed by each volunteer affirming that he/she is in good health.
- (B) A test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.
- (h) Personnel with evidence of physical illness that poses a threat to the health and safety of clients shall be relieved of their duties.
- (i) Pending receipt of a criminal record transcript as specified in Section 101170 ~~80019~~, and prior to employment or at initial presence in the facility all employees and volunteers determined by the licensing agency to require criminal record clearance shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:
- (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation for which the fine was \$50 or less.
- (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violations for which the fine was \$50 or less.
- (A) If a person has been convicted of a crime other than a minor traffic violation for which the fine was \$50 or less, he/she shall also acknowledge that his/her continued employment is conditioned on approval of the licensing agency.
- ~~(j) Clients shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate in household duties and other tasks suited to the client's needs and abilities.~~
- ~~(1) Such duties and tasks shall be specified in the client's needs and services plan as specified in Chapters 4, 5 and 6.~~
- j (k) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.
- k (l) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation or prejudice.
- l (m) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 101223 ~~80072~~ and/or any of the personal rights provisions of Chapters ~~2 through 7~~.

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1522~~, ~~1531~~, and ~~1562~~ 1596.72, 1596.73, 1596.81 and 1596.871, Health and Safety Code

101217
~~80066~~**PERSONNEL RECORDS**101217
~~80066~~

- (a) Employment application forms shall be completed and maintained on each employee; shall be available to the licensing agency for review, and shall contain the following information:

- (1) Employee's full name.
- (2) Driver's license number if the employee is to transport clients.
- (3) Date of employment.
- (4) A statement signed by the employee that he/she is at least 18 years of age.
- (5) Home address and phone number.
- (6) Documentation of the educational background, training and/or experience specified in Chapters ~~2 through 7~~.
- (7) Past experience, including types of employment and former employers.
- (8) Duties of the employee.
- (9) Termination date if no longer employed by the facility.

- (b) All personnel including the licensee, administrator, employees and volunteers, shall have on file either the record of the health screening specified in Section ~~80065~~(g)(2), or the volunteer statement and a test for tuberculosis specified in Section ~~80065~~(g)(3).

- (c) All personnel records shall be retained for at least three years following termination of employment.

- (d) All records shall be maintained at the facility site.

- (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility site upon request.

- (e) In all cases, personnel records shall document the hours actually worked.

101219
~~80068~~**ADMISSION AGREEMENTS**101219
~~80068~~

- (a) The licensee shall complete and maintain current individual written admission agreements with all clients or with their authorized representatives, if any.

- (b) Admission agreements shall specify the following:

- (1) Basic services.
- (2) Available optional services.

101217 Personnel Records

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~150T~~ and ~~153T~~ 1596.72, 1596.73 and 1596.81, Health and Safety Code.

~~80068~~
101219

ADMISSION AGREEMENTS (Continued)

~~80068~~
101219

- (3) Payment provisions, including the following:
- (A) Basic rate.
 - (B) Optional services rates.
 - (C) Payor.
 - (D) Due date.
 - (E) Frequency of payment.
- (4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the client or his/her authorized representative of any basic rate change.
- (A) It shall be acceptable for agreements involving clients whose care is funded at government-prescribed rates to specify that the effective date of a government rate change shall be considered the effective date for basic service rate modifications and that no prior notice is necessary.
- (5) Refund conditions.
- (6) Right of the licensing agency to perform the duties authorized in Section ~~80044~~¹⁰¹¹⁹⁵(b) and (c).
- (7) Conditions under which the agreement may be terminated.
- (c) Such agreements shall be dated and signed by the client or his/her authorized representative and the licensee, or his/her designated representatives, no later than seven calendar days following admission.
 - (d) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above.
 - (e) The licensee shall retain the original copy of the agreement and shall provide copies to the client and to his/her authorized representative, if any.
 - (f) The licensee shall comply with all terms and conditions set forth in the admission agreement.
 - (g) The admission agreement shall be automatically terminated by the death of the client. No liability or debt shall accrue after the date of death.
- (1) *This does not preclude contractual arrangements such as life care contracts or payments ordered by a court of competent jurisdiction.*

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81 1501 and 1531, Health and Safety Code.

~~101220~~~~80069~~**CLIENT MEDICAL ASSESSMENTS**~~101220~~~~80069~~

- (a) Prior to, or within 30 calendar days following the acceptance of a client, the licensee shall obtain a written medical assessment of the client which enables the assessment of the licensee's ability to provide necessary health related services to the client.
- (1) Such assessment shall be performed by, or under the supervision of, a licensed physician, and shall not be more than one year old when obtained.
- (b) The medical assessment shall provide the following:
- (1) A record of any infectious or contagious diseases which would preclude care of the person by the licensee.
- (2) A test for tuberculosis.
- (3) Identification of the client's special problems and needs.
- (4) Identification of any prescribed medications being taken by the client.
- (5) Ambulatory status.
- (c) The licensing agency shall have the authority to require the licensee to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a client's placement.

~~101221~~~~80070~~**CLIENT RECORDS**~~101221~~~~80070~~

- (a) A separate, complete, and current record shall be maintained in the facility for each client.
- (b) Each record shall contain information including but not limited to the following:
- (1) Name of client.
- (2) Birthdate.
- (3) Sex.
- (4) Date of Admission.
- (5) Names, addresses, and telephone numbers of the authorized representative.
- (6) A signed copy of the admission agreement specified in Section ~~80068~~ ¹⁰¹²¹⁹.
- (7) Name, address and telephone number of physician and dentist, and other medical and mental health providers, if any.
- (8) Medical assessment, including ambulatory status, as specified in Section ~~80069~~ ¹⁰¹²²⁰.

101220 Client Medical Assessments

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections 1596.72, 1596.73, 1596.81 and
1597.05 ~~1501~~, ~~1528~~ and ~~1531~~, Health
and Safety Code.

101221**80070 CLIENT RECORDS (Continued)**101221**80070**

- (9) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance to the client in meeting his/her necessary medical and dental needs.
- (10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.
- (11) Date of termination of services.
- (c) All information and records obtained from or regarding clients shall be confidential.
 - (1) The licensee shall be responsible for safeguarding the confidentiality of record contents.
 - (2) Except as specified in (d) below, or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.
- (d) All client records shall be subject to reproduction by the licensing agency upon demand during normal business hours.
 - (1) A client's records shall also be open to inspection by the client's authorized representative, if any.
- (e) The information specified in (b)(1)-(b)(11) above shall be updated as necessary to ensure the accuracy of the client's record.
- (f) Original or photographic reproduction of all client records shall be retained for at least three years following termination of service to the client.

101223**80072 PERSONAL RIGHTS**101223**80072**

- (a) Each client shall have personal rights which include, but are not limited to, the following:
 - (1) To be accorded dignity in his/her personal relationships with staff and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.
 - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.
 - (4) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.

101221 Client Records

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501~~, ~~1528~~ and ~~1531~~ 1596.72,
1596.73, 1596.81 and 1597.05, Health
and Safety Code.

~~101123~~~~101123~~~~80072~~ PERSONAL RIGHTS (Continued)~~80072~~

- (A) Provisions regarding inspection requests are found in Health and Safety Code Section 1538:
1. Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state. . . .
 2. The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. . . .
 3. Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.
- (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
- (A) Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.
- ~~(6) To leave or depart the facility at any time.~~
- ~~(A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of clients.~~
- ~~(B) This provision shall not apply to minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.~~
- ~~6~~
(7) Not to be locked in any room, building, or facility premises by day or night.
- (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of clients provided the clients are able to exit the facility.
- (B) The licensee shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only with the prior approval of the licensing agency.
- ~~7~~
(8) Not to be placed in any restraining device, except a supportive restraint approved in advance by the licensing agency as specified in (A) through (E) below.

10122380072 PERSONAL RIGHTS (Continued)10122380072

- (A) Supportive restraints shall be limited to appliances or devices including straps, spring release trays, or soft ties, used to support a client in a bed, chair, or wheelchair to prevent falling.
- (B) The request for prior approval to use supportive restraints shall include a written order of a physician indicating the need for such restraints. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.
- (C) Approved supportive restraints shall be fastened or tied in a manner which permits quick release.
- (D) The licensing agency shall approve the use of supportive restraints only after the appropriate fire clearance, as required by Section 80020, has been secured. 101171
- (E) The licensing agency shall have the authority to grant conditional and/or limited approvals to use supportive restraints.
- 8
(9) To receive or reject medical care, or health-related services, except for minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (b) All clients, or their authorized representative(s), shall be personally advised of and given at admission a copy of the rights specified in (a) (1) through (9) above and in the applicable Personal Rights sections of Chapters 2 through 7. 8
- (c) The information specified in (b) above shall be prominently posted in areas accessible to such clients and their visitors.
- (d) The licensee shall ensure that each client is accorded the personal rights as specified in this section and the applicable sections of Chapters 2 through 7.

10122480073 TELEPHONES10122480073

- (a) All facilities shall have telephone service on the premises.

10122580074 TRANSPORTATION10122580074

- (a) Only drivers licensed for the type of vehicle operated shall be permitted to transport clients.
- (b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.
- (c) Motor vehicles used to transport clients shall be maintained in a safe operating condition.

101223 Personal Rights

Authority Cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501~~, ~~1528~~ and ~~1531~~ 1596.72,
1596.73, 1596.81 and 1597.05, Health
and Safety Code.

101224 Telephones

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501~~, ~~1528~~ and ~~1531~~ 1596.72,
1596.73, and 1596.81, Health and Safety Code.

101225 Transportation

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73
and 1596.81, Health and Safety Code.

101227~~80076~~ FOOD SERVICE101227~~80076~~

(a) In facilities providing meals to clients, the following shall apply:

- (1) All food shall be safe and of the quality and in the quantity necessary to meet the needs of the clients. Each meal shall meet at least 1/3 of the servings recommended in the USDA Basic Food Group Plan — Daily Food Guide for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.

~~101227~~~~80076~~ FOOD SERVICE (Continued)~~101227~~
~~80076~~

(A) USDA BASIC FOOD GROUP PLAN DAILY FOOD GUIDE

FOODS TO INCLUDE DAILY	SERVING SIZE	RECOMMENDED NUMBER OF SERVINGS FOR EACH AGE GROUP					
		PRE- SCHOOL CHILD	SCHOOL- AGE CHILD	TEEN- AGER	ADULT	PREG- NANT NURSING	OLDER ADULT
MILK & MILK PRODUCTS							
milk	8 oz.						
yogurt	8 oz.						
cheese	2 oz.	2	2-3	3-4	2	3 or more	2
cottage	1 & 1/2 C.			or more			
ice cream	2 C.						
tofu	8 oz.						
MEAT & ALTERNATES							
beef, pork, lamb, fowl, fish	3 oz.						
small serv.	1 & 1/2 oz.						
Alternates for meat							
	eq. to	2 sm	1-2	2-3	2	2 or more	2
	2-3 oz.			or more			
beans, peas, and lentils	1-1 & 1/2 C						
peanut butter	4-6 Tbsp						
eggs	2-3						
cheese	2-3 oz.						
cottage	1/2-3/4 C						
canned fish	1/2-3/4 C						
nuts	2/3-1 C						
tofu	6-9 oz.						
wheat germ	1/2-3/4 C						
sunflower, pumpkin, & sesame seeds	1/2-3/4 C						
DEEP GREEN AND/OR YELLOW VEGETABLES							
small serving	1/2 C		1	1 or more	1	1 or more	1
	1/4-1/3 C	1 sm					
OTHER VEGETABLES, JUICES AND FRUITS							
small serving	1/2 C	2 sm	2	2 or more	2	2 or more	2
	1/4-1/3 C						
HIGH VITAMIN C FRUITS AND/OR JUICES, sm serv.							
	1/2 C	1 sm	1	1 or more	1	1 or more	1
	1/4-1/3 C						
BREADS & CEREALS							
(whole gr. or enriched) bread	1 slice						
dry cereal	3/4 C						
cooked cereal, rice, noodles	1/2 C						
crackers	4	4 sm	3-4	4 or more	4	4 or more	3-4
tortilla	1 med						
small serv = 1/2 of the serv sizes for breads & cereals							

101227101227~~80076~~ FOOD SERVICE (Continued)~~80076~~

OTHER FOODS: *inc. fats,
sweets, desserts, etc.*

AS APPROPRIATE TO ENERGY NEEDS

FLUIDS: *inc. water*

AS APPROPRIATE TO NEEDS

MISCELLANEOUS: *iodized
salt, fiber, vitamin supplement, etc.*

AS APPROPRIATE TO NEEDS

**Count cheese as one serving of milk or meat, not both. Adapted from the OREGON DIET
MANUAL, fifth edition, 1975, State of Oregon Department Human Resources.*

- (2) Where all food is provided by the facility, arrangements shall be made so that each client has available at least three meals per day.
 - (A) Not more than 15 hours shall elapse between the third meal of one day and first meal of the following day.
- (3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of (a) (1) above for all clients who, in their admission agreement, elect meal service.
- (4) Between meal nourishment or snacks shall be available for all clients unless limited by dietary restrictions prescribed by a physician.
- (5) Menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the clients or their authorized representatives and the licensing agency upon request.
- (6) Modified diets prescribed by a client's physician as a medical necessity shall be provided.
 - (A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.
- (7) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.
- (8) Where indicated, food shall be cut, chopped or ground to meet individual needs.
- (9) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code shall not be used. Milk shall be pasteurized.

101227~~80076~~ FOOD SERVICE (Continued)101227
~~80076~~

- (10) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.
- (11) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.
- (12) If food is prepared off the facility premises, the following shall apply:
 - (A) The preparation source shall meet all applicable requirements for commercial food services.
 - (B) The facility shall have the equipment and staff necessary to receive and serve the food and for cleanup.
 - (C) The facility shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.
- (13) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (14) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.
- (15) Pesticides and other similar toxic substances shall not be stored in food store-rooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.
- (16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (17) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.
- (18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.
- (19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.
- (20) All dishes and utensils used for eating and drinking and in the preparation of food and drink, shall be cleaned and sanitized after each usage.

101227~~80076~~**FOOD SERVICE (Continued)**101227~~80076~~

- (A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.
- (B) Facilities not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.
- (21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.
- (22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the clients.
- (23) Adaptive devices shall be provided for self-help in eating as needed by clients.
- (b) The licensing agency shall have the authority to require the facility to provide written information, including menus, regarding the food purchased and used over a given period when it is necessary to determine if the licensee is in compliance with the food service requirements in the regulations in this Division.
- (1) The licensing agency shall specify in writing the written information required from the licensee.

101228~~80077~~**PERSONAL SERVICES (RESERVED)**101228~~80077~~101229~~80078~~**RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION**101229~~80078~~

- (a) The licensee shall provide care and supervision as necessary to meet the client's needs.

101230~~80079~~**ACTIVITIES [RESERVED]**101230~~80079~~

101227 Food Service

Authority Cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501~~, ~~1528~~, ~~1530~~, ~~1530.5~~, and
~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05,
Health and Safety Code.

101229 Responsibility for Providing Care and Supervision

Authority cited: Section ~~1530~~ 1596.81, Health
and Safety Code. Reference: Sections 1596.72,
1596.73, 1596.81 and 1597.05 ~~1501~~, ~~1528~~
and ~~1531~~, Health and Safety Code.

Article 7. PHYSICAL ENVIRONMENT

101237~~80086~~

ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES

101237~~80086~~

- (a) Prior to construction or alterations, all licensees shall notify the licensing agency of the proposed change.
- (b) The licensing agency shall have the authority to require that the licensee have a building inspection by a local building inspector if the agency suspects that a hazard to the clients' health and safety exists.
- (c) *Prior to construction or alterations, state or local law requires that all facilities secure a building permit.*

101238~~80087~~

BUILDINGS AND GROUNDS

101238~~80087~~

- (a) The facility shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of clients, employees and visitors.
 - (1) The licensee shall take measures to keep the facility free of flies and other insects.
 - (2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.
- (b) All clients shall be protected against hazards within the facility through provision of the following:
 - (1) Protective devices including but not limited to nonslip material on rugs.
- (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.
- (d) The licensee shall provide an isolation room or area for use by ill clients.
- (e) General permanent or portable storage space shall be available for the storage of facility equipment and supplies.
 - (1) Facility equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this chapter and Chapters 2 through 7.
- (f) All licensees serving children under six years of age or serving clients who have physical handicaps, mental disorders, or developmental disabilities shall ensure the inaccessibility of swimming pools, wading pools, fish ponds or similar bodies of water through fencing, covering or other means when not in use.
 - (1) Licensees serving clients as specified in (f) above shall have at least a five-foot fence around swimming pools or shall have a pool covering inspected and approved by the licensing agency. Fencing shall be so constructed that it does not obscure the pool from view, and is self-latching at the top of the gate.

101237 Alternations to Existing Buildings or New
Facilities

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501 and 1531~~ 1596.72, 1596.73
and 1596.81, Health and Safety Code.

~~101238~~~~80087~~ BUILDINGS AND GROUNDS (Continued)~~101238~~~~80087~~

- (A) Facilities licensed prior to the effective date of this chapter shall be permitted to have a four-foot fence until such fence is replaced. If the licensee replaces the fence, it shall meet the five-foot fence requirement.
- (2) Above-ground pools, shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking.
- (g) All in-ground pools, and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.

~~101239~~~~80088~~ FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES~~101239~~~~80088~~

- (a) A comfortable temperature for clients shall be maintained at all times.
- (1) The licensee shall maintain the temperature in rooms that clients occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).
- (A) In areas of extreme heat the maximum shall be 20 degrees F (11.1 degrees C) less than the outside temperature.
- ~~(2) Nothing in this section shall prohibit clients from adjusting individual thermostatic controls.~~
- (b) All window screens shall be in good repair and be free of insects, dirt and other debris.
- (c) Fireplaces and open-faced heaters shall be made inaccessible to clients to ensure protection of the clients' safety.
- (1) *The use of a fireplace screen or similar barrier will meet this requirement.*
- (d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the facility.
- (e) Faucets used by clients for personal care such as shaving and grooming shall deliver hot water.
- (1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by clients to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).
- (2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.
- (3) All toilets, handwashing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids, and/or conveniences shall be provided in facilities accommodating physically handicapped clients who need such items.
- (f) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.

REV. ~~33~~ 3087 REPLACES

Effective 6/20/85

101238 Buildings and Grounds

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1501 and 1531~~ 1596.72, 1596.73
and 1596.81, Health and Safety Code.

~~80088~~ 101239~~80088~~ FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES (Continued)

101239

~~80088~~

- (1) All containers, including movable bins, used for storage of solid wastes shall have tight-fitting covers kept on the containers; shall be in good repair, shall be leakproof and rodent-proof.
- (2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary to comply with (f) above.
- (3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.
- (g) The licensee shall provide linens of various kinds necessary to meet the program of services being offered by the facility and the requirements specified in Chapters 2 through 7.

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Sections 1596.72, 1596.73 and 1596.81 ~~1501~~ and 1531, Health and Safety Code.

Manual of Policies and Procedures

CHILD CARE CENTERS



STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES

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Regulations

CHILD CARE CENTERS - SUBCHAPTER 1

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This Users' Manual is issued as an operational tool.

This Manual contains

- a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Departments affecting DSS programs
- c) Statutes from appropriate Codes which govern DSS programs
- d) Court decisions and
- e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Italic print is used to indicate statutes, other departments' regulations, and operational standards for evaluation. Please note that both other departments' regulations and statutes are mandatory, not optional.

Questions relative to this Users' Manual should be directed to your usual program policy office.

CHAPTER 2. CHILD CARE CENTERS

SUBCHAPTER 1. BASIC REQUIREMENTS

Article 1. GENERAL REQUIREMENTS AND DEFINITIONS

101251
~~81000~~ GENERAL

- (a) Child care centers as defined in Section ~~80001~~ ¹⁰¹¹⁵² (a)(13) shall be governed by the provisions specified in this chapter. In addition, such child care centers, except where specified otherwise in this chapter, shall be governed by Chapter 1, General Requirements.

101252
~~81001~~ DEFINITIONS

- (a) In addition to Section ~~80001~~ ¹⁰¹¹⁵², the following shall apply.

- (1) "Child" means a person who is under 18 years of age who is being provided care and supervision in a child care center, except where specified otherwise in this chapter.

- (2) "Child Care Center" or "Center" means "Child Care Center" as defined in Section ~~80001~~ ¹⁰¹¹⁵² (a)(13).

(A) "Child Care Center" means any facility, ¹⁰²³⁵² of any capacity, other than a family day care home as defined in Section ~~88002~~ (i), in which less than 24-hour per day nonmedical care and supervision is provided for children in a group setting.

(B) The definition encompasses a wide variety of settings. The local licensing agency should be contacted whenever there is a doubt regarding the licensure of a particular facility providing child care.

- (3) "Child Care Center Director" means the administrator of a child care center.

(A) The term "head teacher" shall be an appropriate substitute for the term "child care center director", provided that the head teacher meets the qualifications of a child care center director and there is written delegation of responsibilities as specified in Section ~~81064~~ ¹⁰¹³¹⁵ (c)(1).

- (4) "Emergency Substitute" means a person at least 18 years of age. ¹⁰¹²⁵¹

- (5) "Parent" means authorized representative as defined in Section ~~80001~~ ¹⁰¹²⁵¹ (a)(6).

- (6) "Qualified Teacher Substitute" means a person at least 18 years of age with at least 6 postsecondary semester or equivalent quarter units of early childhood education or child development.

101251 GENERAL.

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference Sections ~~1501~~, ~~1527~~, ~~1528~~, ~~1530~~, and ~~1531~~ 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101252 DEFINITIONS.

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference Sections ~~1501~~, ~~1527~~, ~~1528~~, ~~1530~~ and ~~1531~~, 1596.72, 1596.73, 1596.81, 1596.74, 1596.75, 1596.76 and 1596.770.

101260
~~81009~~ Article 2. LICENSING 101260~~81009~~ POSTING OF LICENSE 81009

- (a) The license shall be posted in a prominent, publicly accessible location in the center.

101283
~~81032~~ Article 3. APPLICATION PROCEDURE 101283~~81032~~ TERMS OF AN INITIAL OR RENEWAL LICENSE 81032

- (a) Notwithstanding Section ~~80032~~ 10183 (a), an initial or renewal license to operate a child care center shall be issued in accordance with Health and Safety Code Section ~~1529~~ 1596.97.

- (1) *Health and Safety Code Section 1529 requires that the license to operate a child care center be issued for a period of three years.*

101296
~~81045~~ Article 4. ADMINISTRATIVE ACTIONS 101296~~81045~~ EVALUATION VISITS 81045

- (a) In addition to Section ~~80045~~ 101196, a comprehensive evaluation of each licensed child care center shall be performed as required by Health and Safety Code Section ~~1528.3~~ 1597.09.

- (1) *Health and Safety Code Section 1528.3 requires that evaluation visits be made to one-third of the licensed Child Care Centers each year.*

Article 5. ENFORCEMENT PROVISIONS (Reserved)

Article 6. CONTINUING REQUIREMENTS

101312~~81061~~ REPORTING REQUIREMENTS 81061

- (a) In addition to Section ~~80061~~ 101212, the following shall apply.
- (b) The name of the child care center director, and any fully qualified teacher(s) designated to act in the child care center director's absence, shall be reported to the licensing agency within 10 days of a change of child care center director or designees.

- (1) Whenever a change in child care center director is reported, in addition to his/her name, the report shall include the following:

(A) Verification of the completion of the coursework required in Section ~~81064~~ 101315 (h). A photocopy of a college transcript or a Children's Center Supervisory Permit shall meet this requirement.

(B) Verification of successful completion of high school. A photocopy of a high school diploma or GED shall meet this requirement. 101315

(C) A summary of the experience required in Section ~~81064~~ 101315 (h).

101260 Posting of LICENSE

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, 1528, 1530 and 1531, 1596.72, 1596.73 and 1596.81.

101283 TERMS of an INITIAL OR RENEWAL LICENSE

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Section 1529, 1596.96 and 1596.97 Health and Safety Code.

101296 EVALUATION VISITS

Authority cited: Sections ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1528~~ 1528.3 and 1534, 1596.852, 1597.05, 1597.08 and 1597.09, Health and Safety Code.

~~10/3/12~~~~10/3/12~~~~81061~~ REPORTING REQUIREMENTS (Continued)~~81061~~

- (c) The licensee shall notify the licensing agency of his/her intent prior to making any structural changes, including but not limited to room additions, which reduce the total amount of indoor or outdoor activity space.

~~10/3/15~~~~81064~~ CHILD CARE CENTER DIRECTORS QUALIFICATIONS AND DUTIES~~81064~~

- (a) In addition to Section ~~80064~~ ^{10/2/15}, the following shall apply.
- (b) All child care centers shall have a director.
- (c) The child care center director shall be responsible for the operation of the center; for compliance with regulations; for communications with the licensing agency; and shall have the authority to acknowledge receipt of deficiency notices and to correct deficiencies that constitute immediate threats to children's health and safety.
- (1) There shall be a clear written statement of the administrative responsibility and authority delegated to the child care center director.
- (A) A copy of this written statement shall be given to the child care center director and shall be made available to the licensing agency upon request.
- (d) The child care center director, or substitute director as specified in (f)(1) below, shall be on the premises, during the hours the center is in operation.
- (1) The director shall not accept outside employment which interferes with the duties specified in these regulations.
- (e) A child care center offering evening and/or nighttime programs in addition to day programs, shall employ a director for each program.
- (f) When temporarily away from the center, the child care center director shall have the authority to delegate his/her responsibilities as specified below.
- (1) When the child care center director is absent temporarily from the center, arrangements shall be made for a fully qualified teacher as specified in Section ~~81065.2~~ ^{10/3/16.2} (c) to act as a substitute. This substitute child care center director shall be aware of center operations, including total enrollment; shall be trained in program operation; and shall be designated as an authorized person to correct operational deficiencies that constitute immediate threats to children's health and safety.
- (2) If the absence is for more than 30 consecutive calendar days, the acting child care center director shall meet the qualifications of a director.
- (g) A licensee who is responsible for two or more centers shall be permitted to serve as the child care center director of one of the centers provided he/she meets the qualifications specified in (h) below, or to serve as the executive director for all the centers, provided that a qualified child care center director is employed for each.
- (h) Child care center directors hired after the effective date of this section shall have completed one of the following prior to employment:

101312 REPORTING Requirements

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~, ~~1530~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

~~101315~~~~81064~~**CHILD CARE CENTER DIRECTORS QUALIFICATIONS AND DUTIES**
(Continued)~~101315~~~~81064~~

- (1) High school graduation or GED; completion, with passing grades, of 15 semester units or equivalent quarter units in early childhood education at an accredited or approved college or university; and at least four years of teaching in a licensed child care center or comparable group child care program.
 - (A) Three semester units or equivalent quarter units of the 15 units required in (1) above shall be in administration or staff relations.
 - (B) Twelve semester units or equivalent quarter units of the 15 units required in (1) above shall include courses which cover the general areas of child growth and development or human growth and development; child, family and community or child and family; and program/curriculum.
- (2) An AA degree from an accredited or approved college or university with a major or emphasis in early childhood education or child development and at least two years of teaching experience in a licensed child care center or comparable group child care program.
 - (A) Three semester units or equivalent quarter units shall be in administration or staff relations.
- (3) A bachelor's degree from an accredited or approved college or university with a major or emphasis in early childhood education or child development and at least one year of teaching experience in a licensed child care center or comparable group child care program.
 - (A) Three semester units or equivalent quarter units shall be in administration or staff relations.
- (4) A Children's Center Supervisory Permit issued by the California Commission for Teacher Preparation and Licensing.
 - (i) Each year of experience required in (h)(1), (2), or (3) above shall be verified as having been performed satisfactorily, at least 3 hours per day for a minimum of 100 days in a calendar year, as a teacher under the supervision of a person who would qualify as a director under these regulations.
 - (j) Child care center directors employed prior to May 1, 1970, who were previously exempted from the 15 unit education requirement, shall complete one of the options specified in (h) above no later than January 1986.

~~101316.2~~~~81065.2~~**TEACHER QUALIFICATIONS AND DUTIES**~~101316.2~~~~81065.2~~

- (a) In addition to Section ~~80065~~ ¹⁰¹²¹⁶, the following shall apply.
- (b) Prior to employment, a teacher shall have completed at least six semester units or equivalent quarter units of the education requirement specified in (c)(1) below.
 - (1) After employment, a teacher hired under (a) above shall complete, with passing grades, at least two units each semester or quarter until the education requirement specified in (c)(1) below is met.

101315 Child Care Center Directors Qualifications
and Duties.

Authority cited: Section ~~1530~~ 1596.81, Health and
Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~,
~~1531~~, and ~~1562~~, 1596.72, 1596.73, 1596.81, 1596.87
and 1597.05, Health and Safety Code.

~~10/31/6.2~~~~10/31/6.2~~~~81065.2~~ **TEACHER QUALIFICATIONS AND DUTIES (Continued)**~~81065.2~~

- (c) To be a fully qualified teacher, a teacher shall have one of the following:
- (1) Twelve postsecondary semester units or equivalent quarter units in early childhood education or child development completed at an accredited or approved college or university, and at least six months of work experience in a licensed child care center or comparable group child care program.
 - (A) The educational units specified in (1) above shall include courses which cover the general areas of child growth and development or human growth and development; child, family and community or child and family; or program/curriculum.
 - (B) Experience shall be verified as having been performed satisfactorily, at least three hours per day for a minimum of 50 days in a six month period, as a paid or volunteer staff member under the supervision of a person who would qualify as a teacher or director under these regulations.
 - (2) A Children's Center Permit issued by the California Commission on Teacher Preparation and Licensing.
- (d) A photocopy of the teacher's Children's Center Permit or transcripts documenting successful completion of the required coursework shall be maintained at the center.
- (e) These education requirements shall not apply to teachers employed as teachers prior to May 1, 1970. A teacher who was employed prior to May 1, 1970 shall remain qualified provided he/she has no break in employment, as a teacher in a child care center, exceeding three consecutive years.
- (f) Each teacher shall visually observe aides under his/her supervision whenever the aide is working with children.

~~10/31/6.3~~~~10/31/6.3~~~~81065.3~~ **TEACHER AIDE QUALIFICATIONS AND DUTIES**~~81065.3~~

- (a) In addition to Section ~~80065~~, the following shall apply:
- (b) Notwithstanding Section ~~80065~~(d), centers shall be permitted to use aides who are less than 18 years old provided they are either:
- (1) High school graduates.
 - (2) Currently participating in an occupational program conducted by an accredited high school or college.
- (c) Verification that an aide who is less than 18 years old meets the qualifications required in (b)(1) or (2) above shall be obtained and maintained at the center.
- (d) An aide shall work only under the direct supervision of a teacher.

101316.2 Teacher Qualifications and Duties

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~, ~~1531~~ and ~~1562~~, 1596.72, 1596.73, 1596.81, 1596.87, and 1597.05, Health and Safety Code.

101316.3 Teacher Aide Qualifications and Duties

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~, ~~1531~~ and ~~1562~~, 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

101316.5~~81065.5~~ **TEACHER-CHILD RATIO**101316.5~~81065.5~~

- (a) There shall be an overall ratio of not less than one teacher present to 12 children in attendance, except as specified in (b) and (c) below.
- (1) The number of children in attendance shall not exceed licensed capacity.
- (2) Whenever children are engaged in activities away from the center no teacher shall be in charge of a group of more than 12 children.
- (A) *Activities outside the perimeter of the licensed child care center pose additional hazards to children. An effort should be made to gain an adult-child ratio of at least 1:6 through the use of adult volunteers.*
- (b) The licensee shall be allowed to use teacher's aides in a teacher-child ratio of one teacher and one aide for every 15 children in attendance.
- (c) Child development programs funded by the State Department of Education and operating under the provisions of Title 5 of the California Administrative Code shall not be required to meet the teacher-child ratios specified in (a) and (b) above. Title 5 staffing ratios shall be applicable in such centers.
- (d) The licensee shall be permitted to include the director in the teacher-child ratio when actually engaged in teaching a group of children.
- (1) The licensee shall be permitted to include the substitute child care center director in the teacher-child ratio when actually engaged in teaching a group of children.
- (e) Each licensee shall maintain an up to date list of qualified teacher substitutes, as defined in Section ~~81001~~ ¹⁰¹²⁵² (a)(6), who shall be called immediately in case of emergency or illness to meet the teacher-child ratios required by this chapter. 101330
- (f) During nap periods the teacher-child ratio specified in Section ~~81079~~ ¹¹¹¹ (c) shall apply.
- (g) The teacher shall not be required to perform housekeeping or maintenance duties which prevent him/her from performing duties related to providing care and supervision.
- (h) Persons employed for clerical, housekeeping and maintenance functions shall not be included as teachers in the teacher-child ratio.
- (1) The licensee shall be allowed to use such persons as emergency substitutes for teachers while a qualified teacher substitute is being secured.

101316.7~~81065.7~~**STAFFING — PARENT-COOPERATIVE CENTERS**101316.7~~81065.7~~

- (a) Parent-cooperative centers shall employ a full time teacher in addition to the director and participating parents when the number of children reaches 25.
- (b) There shall be at least one staff member or participating parent present for each five children in attendance.

101316.5

Teacher - Child Ratio

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101316.7

Staffing - Parent-Cooperative Centers.

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

~~10/31/6.8~~
~~81065.8~~~~10/31/6.8~~
~~81065.8~~**STAFFING FOR WATER ACTIVITIES**

- (a) There shall be at least one adult present, who has a valid water safety certificate on file at the center, during water activities in or near any of the following bodies of water:
- (1) Swimming pool.
 - (2) Any portable pool, the sides of which are so high that the children using it cannot step out unassisted by a person or device, including a ladder.
 - (3) Potentially dangerous natural bodies of water including but not limited to oceans, lakes, rivers, and streams.
- (b) A ratio of not less than one adult, including teachers, to every six children, or fraction thereof, shall be maintained during water activities in or near any of the bodies of water specified in (a)(1) through (3) above.
- (1) Lifeguards or personnel supervising anyone other than center children at the water activity site shall not be included in this ratio.

~~10/31/9~~
~~81068~~**ADMISSION POLICIES**~~10/12/9~~
~~81068~~~~10/31/9~~
~~81068~~

- (a) In addition to Section ~~80068~~, the following shall apply:
- (b) Every center shall have all admission policies in writing and available to the public. The policies shall coincide with the limitations stated on the license, and shall include but not be limited to the following:
- (1) Written admission criteria designating those children whose needs can be met by the center's program and services.
 - (2) The ages of children who will be accepted.
 - (3) The program activities.
 - (4) The supplementary services provided, if any.
 - (5) Field trip provisions, if any.
 - (6) Transportation arrangements, if any.
 - (7) Food service provisions.
 - (8) Medical assessment requirement.
- (c) The licensee shall be allowed to accept children who are physically handicapped, mentally disordered or developmentally disabled provided that the center is able to meet the individual needs of each child.

~~10/31/9.1~~
~~81068.1~~**ADMISSION PROCEDURES**~~10/31/9.1~~
~~81068.1~~

- (a) Each licensee shall develop, implement and maintain an admission procedure, according to the center's individual program, policies, and needs, which enables the person in charge of admissions to:
- (1) Determine that the child meets the center's admission criteria.

101316.8 Staffing for Water Activities

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1428~~, ~~1501~~, ~~1527~~, ~~1531~~ and ~~1562~~ 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

101319 Admission Policies

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1521~~, ~~1527~~, and ~~1528~~, 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

10/319.110/319.1~~81068.1~~ **ADMISSION PROCEDURES** (Continued)~~81068.1~~

- (2) Conduct one or more personal interviews with the parent which meet the following requirements:
- (A) Enable the person responsible for admissions to understand the state of the child's individual health, physical and emotional development, and whether his/her needs can be met by the center.
 - (B) Provide the parent with information about the center which shall include at least, its admission policies and procedures, activities, services, regulations, hours and days of operations, fees, procedures which shall be followed should the child become ill or injured while at the center, and inspection for illness procedures.
 - (C) Provide each parent with a copy of a child abuse prevention pamphlet furnished by the Department.
 - 1. The licensee shall request the parent to sign and date a receipt that the parent has received and read the pamphlet. 10/221 10/321
- (3) Obtain all identifying information specified in Sections ~~80070~~ 10/220 (b) and ~~81070~~ 10/321 (b).
- (4) Obtain all health information specified in Section ~~80069~~ 10/220 and ~~81070~~ 10/321 (c).
- (b) Within 30 days of receipt of an initial supply of child abuse prevention pamphlets furnished by the Department, the licensee shall distribute a pamphlet to the parent of each child being cared for in the facility.
- (1) The licensee shall request the parent to sign and date a receipt that the parent has received and read the pamphlet. 10/320

10/320
~~81069~~10/320
~~81069~~ **MEDICAL ASSESSMENTS** 10/220

- (a) In addition to Section ~~80069~~ 10/220, the following shall apply. 10/220
- (1) If a medical assessment meeting the requirements of Section ~~80069~~ 10/220 is not available for each child and cannot be obtained within 30 days of admission:
- (A) A medical appointment date shall be obtained from the parent upon the child's admission.
 - (B) A TB test shall be obtained on the child within 30 days of admission.
- (b) The licensee shall not be required to document medical assessments on children who are also enrolled in a public or private elementary school.
- (c) Children whose parents adhere to a religious faith practicing healing by prayer or other spiritual means, shall not be required to meet the requirements of this section provided the parents:
- (1) Provide information relative to the child's health history.
 - (2) Sign a statement which indicates their:
 - (A) Acceptance of full responsibility for the child's health.
 - (B) Refusal to obtain a medical examination of the child.
 - (C) Request that no medical care be given to the child.

101319.1 Admission Procedures

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101320 Medical Assessments

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1507~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

~~101320.1~~~~101320.1~~~~81069.1~~ IMMUNIZATIONS~~81069.1~~

- (a) Prior to admission children shall be immunized against diseases, as required by the California Administrative Code, Title 17, commencing with Section 6000.
- (b) *California Administrative Code Title 17, Section 6020 requires that appropriate vaccines be received by children as follows:*
- (1) *Poliomyelitis Vaccine. The required immunizations against poliomyelitis for first admission shall consist of one of the following:*
- (A) *Trivalent oral poliovirus vaccine (TOPV) primary series, which consists of at least three doses. If the third or last dose was administered before two years of age, one additional dose is required.*
- (B) *Inactivated poliovirus vaccine (IPV) primary series, which consists of at least four inoculations. If the fourth or last dose was administered before two years of age, one additional dose is required.*
- (C) *If both trivalent oral poliovirus vaccine (TOPV) and inactivated poliovirus vaccine (IPV) have been received, a combined total of at least four doses shall be required. If the fourth or last dose was administered before two years of age, one additional dose is required.*
- (2) *Diphtheria and Tetanus Toxoids and Pertussis Vaccine. The required immunizations against diphtheria, tetanus and pertussis for first admission shall consist of one of the following:*
- (A) *Diphtheria, tetanus and pertussis (DTP) primary series, which consists of at least four doses. If the fourth or last dose was administered before two years of age, one additional dose is required.*
- (B) *Tetanus and diphtheria (Td) primary series, which consists of at least three doses.*
- (C) *If both diphtheria, tetanus and pertussis (DTP) and tetanus and diphtheria (Td) have been received, a combined total of at least four doses shall be required. If the fourth or last dose was administered before two years of age, one additional dose is required.*
- (3) *Measles (Rubeola) Vaccine. The required immunization against measles (rubeola) for first admission shall consist of a single dose of live virus measles (rubeola) vaccine administered on or after the first birthday. Combination vaccines that include a measles component are acceptable for meeting this requirement.*
- (4) *Rubella Vaccine. The required immunization against rubella for first admission shall consist of a single dose of rubella vaccine administered on or after the first birthday. Combination vaccines that include a rubella component are acceptable for meeting this requirement. Persons already enrolled in California public or private schools at kindergarten level or above as of January 1, 1980 are exempt from the rubella immunization requirements.*

~~10/320.1~~~~10/320.1~~~~81069.1~~ IMMUNIZATIONS (Continued)~~81069.1~~

- (5) *Mumps Vaccine.* The required immunization against mumps for the first admission shall consist of a single dose of mumps vaccine administered on or after the first birthday. Combination vaccines that include a mumps component are acceptable for meeting this requirement. Persons already enrolled in California public or private schools at kindergarten level or above as of January 1, 1980 are exempt from the mumps immunization requirement.
- (c) *California Administrative Code, Title 17, Section 6035(a)* provides that any pupil who has not received any vaccines against poliomyelitis, diphtheria, tetanus, pertussis, measles, rubella or mumps may be admitted on condition that he or she receives:
- (1) The first doses of the appropriate vaccines no later than 10 school days after the date of first admission, and
 - (2) Remaining required doses of the appropriate vaccines as follows:
 - (A) Trivalent oral poliovirus vaccine (TOPV) at intervals of six to 10 weeks between the first and second doses and six to 12 months between the second and third doses. If the third dose is administered before two years of age, one additional dose is required no later than 10 school days after admission to kindergarten, or
 - (B) Inactivated poliovirus vaccine (IPV) at intervals of four to eight weeks between the first and second, and second and third doses, and an interval of six to 12 months between the third and fourth doses. If the fourth dose is administered before two years of age, one additional dose is required no later than 10 school days after admission to kindergarten.
 - (C) Diphtheria, tetanus and pertussis (DTP) at intervals of four to eight weeks between the first and second and second and third doses, and an interval of six to 12 months between the third and fourth doses. If the fourth or last dose is administered before two years of age, one additional dose is required no later than 10 school days after admission to kindergarten, or
 - (D) Tetanus and diphtheria (Td) at intervals of four to eight weeks between the first and second doses and six to 12 months between the second and third doses.
 - (E) Measles (rubeola) vaccine consists of a single dose, therefore no subsequent doses are necessary.
 - (F) Rubella vaccine consists of a single dose, therefore no subsequent doses are necessary.
 - (G) Mumps vaccine consists of a single dose, therefore no subsequent doses are necessary.

~~101320.1~~~~101320.1~~~~81069.1~~ IMMUNIZATIONS (Continued)~~81069.1~~

- (d) *California Administrative Code, Title 17, Section 6035(b) provides that the child who has not yet been fully immunized against those diseases requiring multiple doses may be admitted provided that he/she is scheduled for the remaining medically due doses as follows:*
- (1) *The next required doses of the appropriate vaccines either within the time intervals specified below, or, if the maximum time interval has already been exceeded, no later than 10 school days after the date of first admission, and*
- (2) *Remaining required doses of the appropriate vaccines as follows:*
- (A) *Trivalent oral poliovirus vaccine (TOPV) at intervals of 6 to 10 weeks between the first and second doses and 6 to 12 months between the second and third doses. If the third or last dose is administered before two years of age, one additional dose is required no later than 10 school days after admission to kindergarten level or above, or*
- (B) *Inactivated poliovirus vaccine (IPV) at intervals of 4 to 8 weeks between the first and second, and second and third doses, and an interval of 6 to 12 months between the third and fourth doses. If the fourth or last dose is administered before two years of age, one additional dose is required no later than 10 school days after admission to kindergarten level or above.*
- (C) *Diphtheria, tetanus and pertussis (DTP) at intervals of 4 to 8 weeks between the first and second, and second and third doses, and an interval of 6 to 12 months between the third and fourth doses. If the fourth or last dose is administered before two years of age, one additional dose is required no later than 10 days after admission, or*
- (D) *Tetanus and diphtheria (Td) at intervals of 4 to 8 weeks between the first and second doses and 6 to 12 months between the second and third doses.*
- (e) The licensee shall be permitted to exempt a child from this requirement provided that one of the following requirements is met:
- (1) A physician provides a written statement that immunization is not indicated and specifies the duration of the exemption if it is temporary.
- (2) The parents provide a written statement that immunization is contrary to their personal or religious beliefs.
- (3) Such written statements shall be maintained in the center for as long as the child is enrolled.
- (f) The licensee shall document each child's immunization and maintain such documentation in the center for as long as the child is enrolled.
- (g) The licensee shall not be required to document immunizations of children also enrolled in a public or private elementary school.

101320.1 Immunizations

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ add. 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101321~~81070~~ CHILD'S RECORDS101221101321~~81070~~

- (a) In addition to Section ~~80070~~, the following shall apply.
- (b) Each child's record shall contain the following identifying information, including:
- (1) Names, addresses, and telephone numbers of relatives or others who can assume responsibility for the child if, for some reason, the parent cannot be reached when necessary.
- (c) Each child's record shall contain the following health information:
- (1) Dietary restrictions and allergies.
 - (2) Instructions for the action to be taken in case the parent, or the physician designated by the parent, cannot be reached in an emergency.
 - (3) A signed consent form for emergency medical treatment unless the parent has signed the statement specified in Section ~~81069~~(e).
- (d) Each child's record shall contain the receipt signed and dated by the parent acknowledging receipt of the child abuse prevention pamphlet required in Section ~~81068~~ 1. 101319.1
- (1) If the parent refuses to sign a receipt for the pamphlet, a dated notation to that effect shall be retained in the child's record.

101323.1~~81072~~ DISCIPLINE101221101323.1~~81072~~

- (a) Any form of discipline or punishment which violates a child's personal rights, as specified in Section ~~80072~~, shall not be permitted.

101326~~81075~~ HEALTH RELATED SERVICES 101226101326~~81075~~

- (a) Notwithstanding Section ~~80075~~, the following shall apply.
- (b) The licensee shall immediately notify parents of any illness or injury in the center more serious than minor cuts and scratches, and obtain their specific instructions regarding action to be taken.
- (1) In the case of an illness severe enough to require isolation of the child, the center shall follow the procedures specified in Section ~~81075~~ 2. 101326.1
- (c) The licensee shall make prompt arrangements for obtaining medical treatment for any child, if necessary.
- (d) The licensee shall obtain emergency medical treatment without specific parental instruction in case the parents cannot be reached immediately, or the nature of the illness or injury is such that there should be no delay in getting medical treatment.
- (1) The teacher supervising activities away from the center premises shall carry one of the following for each child engaged in such activities:
 - (A) A signed consent form for emergency medical treatment.
 - (B) The phone numbers of the parents, relatives, or others who can assume responsibility in an emergency for each child excepted from the requirement for an emergency medical treatment consent form by Section ~~81069~~(e).
- (e) The licensee shall maintain the following first aid supplies in a location accessible to staff but inaccessible to children:

101321 Child's Records

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1501, 1507, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101323.1 Discipline

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1501, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

10132681075 HEALTH RELATED SERVICES (Continued)10132681075

- (1) A current edition of a first aid manual.
 - (2) Sterile first aid dressings.
 - (3) Bandages or roller bandages.
 - (4) Adhesive tape.
 - (5) Scissors.
 - (6) Tweezers.
 - (7) Thermometer.
 - (8) Antiseptic solution.
- (f) In centers where the licensee chooses to handle medications:
- (1) All prescription and nonprescription medications shall be centrally stored in accordance with the requirements specified below.
 - (A) Medications shall be kept in a safe place inaccessible to children.
 - (B) Each container shall have an unaltered label.
 - (C) A refrigerator shall be used to store any medication which requires refrigeration.
 - (2) All prescription and nonprescription medications shall be maintained with the child's name, and dated.
 - (3) All prescription and nonprescription medications shall be administered only when approved by the child's parent and in accordance with label directions.
 - (4) The licensee shall develop and implement a written plan to record the administration of prescription and nonprescription medications and to inform the parent daily when such medications have been given.
 - (5) When no longer needed by the child, or when the child withdraws from the center, all medications shall be returned to the parent, or disposed of after an attempt to reach the parent.

101326.181075.1 DAILY INSPECTION FOR ILLNESS101326.181075.1

- (a) The licensee shall be responsible for ensuring that children with obvious symptoms of illness, including but not limited to fever or vomiting are not accepted.
- (1) Additional attention shall be paid to children who:
- (A) Have been absent because of illness.
 - (B) Have been exposed to contagious disease.
- (b) The licensee shall develop and implement a written inspection procedure which shall include the following:
- (1) No child shall be accepted without contact between the center staff and the person bringing the child to the center.
 - (2) The licensee shall require that the person bringing the child remain until the child is accepted.

101326 Health Related Services

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1501, 1507, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

~~101326.1~~~~101326.1~~~~81075.1~~ DAILY INSPECTION FOR ILLNESS (Continued)~~81075.1~~

- (A) After the child has been determined to be without obvious signs of illness and has been accepted, the center shall require that the person sign the child in.
- (c) School-age children who come to the center from schools or by public transportation shall not be required to sign in but shall be inspected for obvious signs of illness.
- (1) If the child is found to be ill the procedures specified in Section ~~81075(b)~~, (c) or (d) or ~~81075.2~~ shall be followed.

~~101326~~~~101326.2~~~~81075.2~~~~101326.2~~
~~81075.2~~ ISOLATION FOR ILLNESS

- (a) A center shall be equipped to isolate and care for any child who becomes ill during during the day.
- (1) The isolation area shall be located to afford easy supervision.
- (2) The isolation area shall be equipped with a cot, couch, or bed for each ill child.
- (3) The isolation area shall not be located in the kitchen area or in the general use toilet area.
- (b) The child's parent shall be notified immediately when the child becomes ill enough to require isolation, and shall be asked to have the child removed from the center as soon as possible.

~~101326.3~~~~81075.3~~ OBSERVATION OF THE CHILD~~101326.3~~~~81075.3~~

- (a) The behavior and health of the children shall be continually observed throughout the period of attendance.
- (b) Any unusual behavior or signs of illness shall be reported to the parents and recorded in the child's record.

~~101327~~~~81075~~ FOOD SERVICE~~101327~~~~81075~~

- (a) In addition to Section ~~80076~~, the following shall apply.
- (b) The following shall be offered daily:
- (1) Full-day programs shall offer a midmorning and a midafternoon snack.
- (2) Full-day programs shall ensure that each child has a lunch.
- (A) It shall be permissible for parents to send meals for their children.
- (3) Half-day programs shall offer a midmorning or midafternoon snack.
- (c) Each snack shall include at least one serving from each of two or more of the four major food groups.
- (d) Each meal shall meet the requirements of Section ~~80076(a)(1)~~.
- (e) A child shall not be served any food to which the child's record indicates he/she has an allergy.

~~101227~~

101326.1 Daily Inspection for Illness

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1501, 1507, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101326.2 Isolation for Illness

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1501, 1507, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101326.3 Observation of the Child

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1501, 1507, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101327101327~~81076~~ **FOOD SERVICE (Continued)**~~81076~~

- (f) All centers which prepare meals or snacks on site shall have an area equipped with at least the following:
- (1) Sink.
 - (2) Hot and cold running water.
 - (3) Refrigeration.
 - (4) Storage space for food.
- (g) The food preparation area shall not be used for:
- (1) Children's play activities, unless such activities are part of a supervised food education program.
 - (2) Napping.
 - (3) Passageways for children while it is being used for food preparation or service.

101329101329~~81078~~ **RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION**~~81078~~

- (a) In addition to Section 101229 ~~80078~~, the following shall apply:
- (1) No group of children shall be left without the supervision of a teacher at any time. Supervision shall include visual observation.

101329.1~~81078.1~~ **SIGN IN AND SIGN OUT**101326.1101329.1~~81078.1~~

- (a) In addition to the sign-in procedure requirement of Section ~~81075.1~~ (b), the licensee shall develop, maintain, and implement a written procedure to transfer responsibility for the child from the center to the parent which shall, at a minimum, include the following:
- (1) The person removing the child from the center shall sign the child out.
- (b) The center shall be permitted to exempt from the sign-out procedure those school-age children whose parents have agreed to allow their children to leave the center on their own.
- (c) Sign in/out sheets for children, required by this Section and by Section 101326.1 ~~81075.1~~ shall be kept for one month and shall be available for review at the center by the licensing agency.

101330~~81079~~ **ACTIVITIES**101330~~81079~~

- (a) Each center shall provide a variety of daily activities designed to meet the needs of the children including but not limited to:
- (1) Quiet and active play.
 - (2) Rest and relaxation.
 - (3) Eating.
 - (4) Toileting.
- (b) All children shall be given an opportunity to nap or rest without distraction or disturbance from other activities at the center.

101327 Food Service

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101329 Responsibility for Providing Care and Supervision

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101329.1 Sign In and Sign Out

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101330101330~~81079~~ ACTIVITIES (Continued)~~81079~~

- (1) A napping space and a cot or mat shall be available to each child who has not reached his/her fifth birthday.
- (2) Centers which serve children in half-day programs shall not be required to schedule napping periods or have napping equipment for such children.
- (3) No child shall be forced to stay awake or to stay in the napping area longer than the normal napping period.
- (c) A teacher child ratio of one teacher supervising 24 napping children shall be permitted provided that the remaining teachers necessary to meet the overall ratio specified in Section ~~81055.5~~ (a) are immediately available at the center.

101316.7**Article 7. PHYSICAL ENVIRONMENT**101338.2101338.2~~81087.2~~ **OUTDOOR ACTIVITY SPACE**~~81087.2~~

- (a) There shall be at least 75 square feet per child of outdoor activity space based on the total licensed capacity.
 - (1) The following areas shall not be included in the calculation of outdoor activity space.
 - (A) Swimming pools and adjacent pool decking.
 - (B) Areas of standing water or areas subject to flooding.
- (b) The outdoor activity space shall be situated to:
 - (1) Provide a shaded rest area for the children.
 - (2) Permit children to reach the outdoor activity space safely.
- (c) Equipment and activity areas shall be arranged so that there is no hazard from conflicting activities.
- (d) The surface of the outdoor activity space shall be maintained:
 - (1) In a safe condition for the activities planned.
 - (2) Free of hazards, including but not limited to holes, broken glass and other debris, and dry grasses which pose a fire hazard.
- (e) As a condition of licensure the areas around and under high climbing equipment, swings, slides and other similar equipment shall be cushioned with material, which absorbs falls.
 - (1) Sand, woodchips, peagravel, or rubber mats commercially produced for this purpose, shall be permitted.
 - (2) The use of cushioning material other than that specified in (1) above, shall be approved by the licensing agency in advance of installation.

101330 Activities

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

~~101338.2~~~~101338.2~~~~81087.2~~ **OUTDOOR ACTIVITY SPACE** (Continued)~~81087.2~~

- (f) Sand boxes shall be inspected daily and kept free of hazardous foreign materials.
- (g) The playground shall be enclosed by a fence to provide protection for children and to keep them in the outdoor activity area. The fence shall be at least four feet in height.
- (1) *The intent of this requirement is to have a fence of a type which will keep the children from leaving unnoticed but will not in and of itself present a hazard. For example a split rail fence is inefficient at keeping children in, and is therefore not appropriate.*

A barbed wire fence, which will keep children in, is inappropriate because it presents a hazard.

- (h) Any construction or equipment including but not limited to incinerators, air conditioning equipment, water heaters, or fuse boxes which cause a hazardous situation in the outdoor activity space shall be made inaccessible to the children in care.

~~101338.3~~~~101338.3~~~~81087.3~~ **INDOOR ACTIVITY SPACE**~~81087.3~~

- (a) There shall be at least 35 square feet of indoor activity space per child based on the total licensed capacity.
- (1) Bathrooms, halls, offices, isolation areas, food preparation areas, and storage places shall not be included in the calculations of indoor activity space.
- (2) Floor space occupied by shelves, permanent built-in cabinets, space used to meet the requirements of Section ~~81087.4~~, and office equipment shall not be included in the calculation of indoor activity space.
- (3) Floor area under tables, desks, chairs and other equipment intended for use as part of children's activities shall be included in the calculation of indoor activity space.

~~101338.4~~

- (b) The floors of all rooms shall have a surface which is safe and clean.

~~101338.4~~~~101338.4~~~~81087.4~~ **STORAGE SPACE**~~81087.4~~

- (a) Provision shall be made for an individual permanent or portable storage space for each child's clothing, personal belonging, and/or bedding.

101338.2 Outdoor Activity Space

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101338.3 Indoor Activity Space

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

~~101338.4~~~~81087.4~~ STORAGE SPACE (Continued)~~101338.4~~~~81087.4~~

- (b) There shall be permanent or portable storage space in the play rooms for play materials and equipment.
- (1) The licensee shall be permitted to store outdoor play materials and equipment outdoors.
- (c) Napping equipment shall be stored at the center when not in use.
- (d) Combustibles, cleaning equipment and cleaning agents shall be stored in an area separate from food supplies in a locked cabinet or in a location inaccessible to children.

~~101338.5~~~~81087.5~~ WADING POOLS~~101338.5~~~~81087.5~~

- (a) Notwithstanding the requirements of Section ~~80087~~¹⁰¹²³⁸(g), inflatable or other portable plastic wading pools the sides of which are low enough for the children using them to step out unassisted shall not require fencing.
- (1) These pools shall be emptied after each use.

- (b) *For regulations regarding swimming pools and other water activities see Sections ~~80087~~¹⁰¹²³⁸(f) and ~~81065.8~~^{101316.8}.*

~~101339~~~~81088~~ FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES~~101339~~~~81088~~

- (a) In addition to Section ~~80088~~¹⁰¹³³⁹, the following shall apply.
- (b) Based on the total licensed capacity, one toilet and one handwashing fixture shall be maintained for every 15 children, or fraction thereof.
- (1) Urinals shall be permitted to be used to meet the requirements of this section provided they are at a low enough height, or broad-based platforms or anchored steps are provided, to permit the children to reach them.
- (A) There shall be at least two toilets for each urinal counted.
- (B) Centers with toilet-urinal ratios approved prior to the effective date of these regulations shall not be required to meet the ratio in (A) above.
- (2) Notwithstanding the requirements specified in subsections ~~80088~~¹⁰¹²³⁹(e) and (e)(1), handwashing facilities shall not be required to deliver hot water.
- (c) There shall be one toilet and handwashing fixture, separate from and in addition to the number of toilets and handwashing fixtures required in (b) above, designated for use by children who are showing obvious signs of illness, for staff, and for emergency use. They shall be conveniently located in relation to the required isolation area.
- (1) Existing facilities shall not be required to make modifications to meet the requirement in (c) above.
- (2) *The toilet designated for this use may be within the general use area, or may be a separate bathroom.*
- (d) Common towels or washcloths shall be prohibited.

101338.4 Storage Space

Authority Cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101338.5 Wading Pools

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1501~~, ~~1527~~, ~~1528~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

~~101339~~~~81088~~ **FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)**~~101339~~~~81088~~

- (e) Tables and chairs shall be provided to meet the needs of the children.
- (1) Tables and chairs shall be scaled to the size of the children.
- (f) There shall be a cot, couch or bed for each ill child as specified in Section ~~81075.2~~ 101326.3.
- (g) All play equipment, and materials used by children shall be age-appropriate.
- (h) Furniture and equipment shall be maintained in good condition, free of sharp, loose or pointed parts.
- (i) Playground equipment shall be securely anchored to the ground unless it is portable by design.
- (1) Equipment shall be maintained in a safe condition, free of sharp, loose or pointed parts.
- (j) Furniture and equipment, including cots and mats used for napping, shall be arranged so that no exit is blocked.
- (k) All materials and surfaces accessible to children, including toys, shall be free of toxic substances.

~~101339.1~~~~81088.1~~ **NAPPING EQUIPMENT**~~101339.1~~~~81088.1~~

- (a) Cots used for napping shall be maintained in a safe condition.
- (b) Mats used for napping shall be:
- (1) Constructed of foam at least 3/4 inch thick.
- (2) Covered with vinyl or similar wipeable material.
- (3) Marked or colored so that the sleeping side can be distinguished from the floor side.
- (4) Wiped with a detergent/disinfectant weekly or when soiled or wet.
- (5) Maintained in a safe condition with no exposed foam.
- (c) Each cot or mat shall be equipped with a sheet to cover the cot or mat and a blanket or sheet to cover the child, depending upon the weather.
- (1) Bedding shall not be shared by different children without laundering the bedding.
- (2) Bedding shall be individually stored so that each child's bedding is identifiable and so that one child's used bedding does not come into contact with other bedding.
- (3) Sheets shall be washed weekly or when soiled or wet.
- (4) Blankets shall be cleaned or changed when soiled.
- (d) Napping equipment shall be arranged to provide access, for each child, to a walkway without the necessity of walking on or over the cots or mats of other children.

101339 Fixtures, Furniture, Equipment, and Supplies.

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1501, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101339.1 Mapping Equipment

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections 1501, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

~~101339.2~~~~81088.2~~ DRINKING WATER~~101339.2~~~~81088.2~~

- (a) Drinking water from a noncontaminating fixture or container shall be readily available both indoors and outdoors.
- (1) Children shall be free to drink as they wish.
- (2) Anchored steps or a broad-based platform shall be utilized when a drinking fountain is too high for the children in care.
- (3) *Bottled water or portable containers will be allowed provided that:*
- (A) *The water and containers are kept free of contamination.*
- (B) *Bottled water containers are secured to prevent tipping and breaking.*
- (4) All water for drinking shall be potable as defined in California Administrative Code, Title 24, Part 5.
- (A) *Title 24, Part 5 defines potable water as water which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the health authority having jurisdiction.*

101339.2 Drinking Water

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1501, 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

SUBCHAPTER 2. GROUP CARE FOR INFANTS**Article 1. GENERAL REQUIREMENTS AND DEFINITIONS**101351~~81100~~ **GENERAL**101351~~81100~~

- (a) Child Care facilities providing group infant care shall be governed by the provisions specified in this subchapter. In addition, such facilities, except where specified otherwise, shall be governed by Chapter 2, Subchapter 1, Basic Requirements, and by Chapter 1, General Requirements.

Article 2. LICENSING (Reserved)**Article 3. APPLICATION PROCESS (Reserved)****Article 4. ADMINISTRATIVE ACTIONS (Reserved)****Article 5. ENFORCEMENT PROVISIONS (Reserved)****Article 6. CONTINUING REQUIREMENTS**101416.2~~81165.2~~ **NURSERY AIDE QUALIFICATIONS AND DUTIES**101416.2~~81165.2~~

- (a) A nursery aide works, under the director and/or assistant director, to give continuous attention to the total physical, emotional and intellectual needs of a particular group of infants.
- (b) An aide shall:
- (1) have graduated from high school or have equivalent education; or
 - (2) be enrolled in a course leading to graduation from high school; or
 - (3) demonstrate through previous experience the potential for increasing skills through study, conferences, observations and other means of learning.
 - (4) Have experience in caring for children, either in own home or other person's home, or as children's nurse, practical nurse or rearing own children.

101416.3~~81165.5~~ **STAFF-CHILD RATIO**101416.3~~81165.5~~

- (a) If a nursery has more than 25 infants enrolled, there shall be both a director and an assistant director on the staff.
- (1) No group of children shall be left without adult supervision at any time. There shall be sufficient staff to assure that at least one staff person shall be within sight and sound of each child in the nursery at all times.
 - (2) There shall be at least one nursery aide for every four infants enrolled in the nursery. The aide shall devote his/her working day to the care of the infants, except at such time as rest periods, attendance at staff meetings, etc., when a regularly assigned substitute shall replace her/him.
 - (3) There shall be provision for overlap of staff for different shifts so that continuity of care is assured.
 - (4) There shall be sufficient auxiliary help for housekeeping duties, cooking, laundering, etc., so that the primary work of the aides can be devoted to child care when children are present.

101351 General

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1527, 1530 and 1531 1596.72, 1596.73 and 1596.81, Health and Safety Code.

101416.2 Nursery Aide Qualifications and Duties

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1527 1530 and 1531, 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

101416.3 Staff-Child Ratio

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1527, 1530 and 1531 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

~~101419~~~~81168~~ **ADMISSION POLICIES**~~101419~~
~~81168~~

- (a) Every nursery shall establish admission criteria designed to guide in the selection of children who can benefit most from the program and services it has to offer.
- (b) Every nursery shall state its admission criteria in writing and make such written policies available to the public.
- (c) The admission policies established by each nursery shall be determined by the total program, including:
 - (1) The hours of operation
 - (2) The size of groups
 - (3) The number and qualifications of staff
 - (4) The program activities
 - (5) The supplementary services provided.
- (d) Although its program will determine the specific admission policies established by each nursery, the admission policies of all nurseries shall include the following:
 - (1) Each child admitted shall be determined to be:
 - (A) Ready for the type of group experience that the nursery has to offer.
 - (B) Able to benefit from the program offered.
 - (2) Children who are physically handicapped or emotionally disturbed shall not be accepted unless it is determined that:
 - (A) There will be no adverse affect upon other children, either through direct behavior of the child or through requiring staff time needed by other children, AND
 - (B) The nursery is able to meet the individual needs of the child.

~~101426~~~~81175~~ **HEALTH-RELATED SERVICES**~~101426~~
~~81175~~

- (a) Every nursery caring for infants shall have provision for continuing medical consultation from a licensed physician. Such medical consultation shall include the following:
 - (1) Development of plans for continuing surveillance of communicable diseases.
 - (2) Development of plans for daily health surveillance including plans for the care of the sick children.
 - (3) Development of procedures for recordkeeping and reporting of accidents and illnesses.
 - (4) Standing orders for allowed treatment for nonlife-endangering illnesses.
 - (5) Plans for procedures for emergency health care including posting of necessary telephone numbers.
 - (6) Plan for storage of medications.

101419 Admission Policies

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Section ~~1527~~, ~~1530~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101426101426~~81175~~ HEALTH-RELATED SERVICES (Continued)~~81175~~

- (7) Determination of the adequacy of emergency first aid procedures including the availability of trained staff.
- (8) Plan for the provision for the continuing health care of those children who are not not under the care of a personal physician.

101427101427~~81176~~ FOOD SERVICE~~81176~~

- (a) The feeding of the children shall be planned by a nutritionist, pediatrician, or public health nurse, with the introduction of new foods into individual diets so as to insure proper nourishment and physical development of the infants.
- (b) Infants under six months shall be held for bottle feeding. At no time shall a child be placed in bed with a propped bottle. At no time shall a child be allowed to carry a bottle.
- (c) There shall be frequent communication with the child's mother about feeding, such as introduction of new foods, likes and dislikes, and introduction of cup.

101428101428~~81177~~ PERSONAL SERVICES~~81177~~

- (a) Staff shall have special instruction so that they may understand the developmental needs of children at the time toilet training is begun.
- (b) There shall be a plan for regular conferences and referral for social services. However, it shall be the policy of the nursery that the parent has primary responsibility for his/her own child, and the final decision for the child's care shall be his/hers.
- (c) Provision shall be made for social services to be provided, as needed, to the families of children enrolled in the nursery.
 - (1) Such social services may be provided in accordance with an agreement or contract with an established public or private social agency.
- (d) Each child shall have sufficient changes of clothing so that he/she can be clean and dry all day.
 - (1) Each child shall have a separate storage place for his/her clothing and this shall be clearly labeled.
 - (2) Disposable diapers or diaper service shall be used, and a separate container for diaper disposal shall be used.
- (e) Each child shall have a separate crib, cot or floor pad for sleeping purposes and no other child shall occupy this.
 - (1) Each child's bedding shall be used for him/her only, and shall be replaced when wet or soiled.
 - (2) Bedding shall be changed daily.

101426 Health-Related Services

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101427 Food Service

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1527, 1528 and 1531 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101428 Personal Services.

Authority cited: Section 1530 1596.81, Health and Safety Code. Reference: Sections 1527, 1528 and 1531 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

Article 7. PHYSICAL ENVIRONMENT

101438.1101438.1~~81187.1~~ GENERAL SANITATION~~81187.1~~

- (a) Nurseries shall maintain an acceptable level of general sanitation and cleanliness with regard to the building, playground, equipment and storage of supplies, bedding, clothing, food and other equipment.
- (1) Each care-taking person caring for infants shall wash his/her hands before and after each care-taking act involving contact with the child.
- (2) Provision of proper washing of dishes, bottles and utensils shall be made. Unless a dishwasher is used, they shall be dipped in a sterilizing solution and air dried.
- (3) The use of common washcloths and towels for the children shall be prohibited.
- (4) All rooms shall be cleaned daily.
- (5) All walls and floors shall be made of such material that they can be easily washed.
- (6) Diapering shall be done for each child in his/her own crib, or if a common changing table is used the cover shall be changed after each child's use. Disposable paper towels or appropriate substitute may be used for this purpose. An unpadded surface shall be wiped with soap and water after each use.
- (7) If training chairs are used they shall be emptied promptly and sanitized at least once a day. The plastic one-piece units which can be immersed in a sanitizing solution are preferred.

101438.2101438.2~~81187.2~~ OUTDOOR ACTIVITY SPACE~~81187.2~~

- (a) There shall be adequate, well-fenced outdoor activity space, properly drained, shaded, free from rubbish, litter or other hazards.
- (b) There shall be space for those children who will be in playpens but who need an interesting area with both sun and shade.
- (c) The outdoor activity space be equipped with toys to provide development of large muscles.

101438.3101438.3~~81187.3~~ INDOOR ACTIVITY SPACE~~81187.3~~

- (a) There shall be adequate indoor activity space separate from the sleeping area. There shall be sufficient space to provide areas where toddlers can explore in a safe manner an environment that offers stimulation and experimentation.
- (b) There shall also be space where children who cannot yet walk can be in playpens or can be placed on the floor for free play and crawling.

101438.1 General Sanitation

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1527~~, ~~1530~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101438.2 Outdoor Activity Space

Authority cited: Section ~~1530~~ 1596.81, Health and Safety Code. Reference: Sections ~~1527~~, ~~1530~~ and ~~1531~~ 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

101438.381187.3 INDOOR ACTIVITY SPACE (Continued)101438.381187.3

- (c) The activity space shall be equipped with washable, safe manipulative toys which lend themselves to the development of perceptual, and auditory discrimination. They shall not be small enough to swallow nor made of material which could splinter.
- (d) There also shall be sufficient space for quietness and privacy for those children who need it.
- (e) The indoor activity space shall be equipped with pictures, books, record players, and other items so that it offers variety, change and encouragement to explore.

101438.3 Indoor Activity Space

Authority cited: Section ~~1530~~ 1596.81,
Health and Safety Code. Reference:
Sections ~~1527~~, ~~1530~~ and ~~1534~~ 1596.72, 1596.73,
1596.81 and 1597.05, Health and Safety
Code.

Manual of Policies and Procedures

FAMILY DAY CARE HOMES FOR CHILDREN



STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES

Distributed Under the Library Distribution Act

Re-number Division 6, Chapter 8.5, Family Day Care Homes for Children, to Division 12, Sections 102351.1 through 102423, nonsequential, to read:

CHAPTER ~~8/5~~ 3 FAMILY DAY CARE HOMES FOR CHILDREN

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ARTICLE 7. PHYSICAL ENVIRONMENT (Reserved)

FAMILY DAY CARE HOMES FOR CHILDREN

"This Users' Manual is issued as an operational tool.

This Manual contains

- a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Departments affecting DSS programs
- c) Statutes from appropriate Codes which govern DSS programs; and
- d) Court decisions
- e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Italic print is used to indicate statutes, other departments' regulations, and operational standards for evaluation. Please note that both other departments' regulations and statutes are mandatory, not optional.

Questions relative to this Users' Manual should be directed to your usual program policy office."

102351.1102351.1~~88001~~ SPECIFIC EXEMPTION~~88001~~

The provisions of Chapter 1, General Requirements, shall not apply to Family Day Care Homes.

102352102352~~88002~~ DEFINITIONS~~88002~~

- (a) "Adult" or "Substitute Adult" means a person who is 18 years of age or older.
- (b) "Applicant" means any person or persons making an application for a license to operate a family day care home.
- (c) "Assistant Provider" means a person at least 14 years of age who is primarily involved in caring for children during the hours that the home provides care.
- (d) "Capacity" means the maximum number of children for whom care is authorized at any one time.
- (e) "Child" means a person, including an infant, who has not yet reached his or her eighteenth birthday.
- (f) "Completed Application" means that all required information and documentation has been provided to the department or licensing agency, including the completed application form, a fire clearance if more than six children are to receive care, and that a home visit has been completed.
- (g) "Department" is defined in Health and Safety Code Section ~~1502(b)~~ 1596.77.
Health & Safety Code Section 1502(b):
"Department" or "state department" means the State Department of Social Services.
- (h) "Director" is defined in Health and Safety Code Section ~~1502(c)~~ 1596.770.
Health & Safety Code Section 1502(c):
"Director" means the Director of Social Services.
- (i) "Family Day Care" means regularly provided care, protection and supervision of children, in the caregiver's own home, for periods of less than 24 hours per day, while the parents or guardians are away.
- (j) "Infant" means a child who has not yet reached his or her second birthday.
- (k) "License" means a written authorization by the Department or licensing agency to operate a family day care home.

102351.1 SPECIFIC EXEMPTION

NOTE: Authority cited: Sections 1596.73 and 1596.74, Welfare and Institutions Code and Section 1596.75, Health and Safety Code. Reference: Section 1596.70, 1596.72, 1596.73 and 1596.81, Health and Safety Code.

102352~~88002~~ DEFINITIONS (Continued)102352~~88002~~

- (l) "Licensee" or "registrant" means an adult licensed or registered to operate a Family Day Care Home and who is primarily involved in providing care for the children during the hours that the home provides care.
- (m) "Licensing agency" means the Department licensing office, the county welfare department, or other public agency which has delegated authority by contract with the Department of Social Services to license designated categories of community care facilities.
- (n) "Provider" means anyone providing care to children as authorized by these regulations and includes the licensee, registrant, assistant provider or substitute adult.
- (o) "Registration" means written authorization by the Department or licensing agency to operate a Family Day Care Home as part of the demonstration project pursuant to Health and Safety Code Section 1597.62.

102358~~88004~~ LICENSE EXEMPTIONS102358~~88004~~

- (a) Licensure or registration is required before Family Day Care is provided except as provided in Sections ~~1505 and 1597.51(b)~~ ^{1596.792} of the Health and Safety Code.
 - (1) The children being cared for are related by blood or marriage to the caregiver.
 - (2) The children being cared for are from one family in addition to the operator's own children.
 - (3) The home is accredited by a school district.
 - (4) The care provided to children is part of a cooperative arrangement between parents for the care of their children by one or more of the parents, when no payment for the care is involved.

102352 DEFINITIONS

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code, and Section 1597.52 1596.81, Health and Safety Code. Reference: Sections 1597.51 1596.74, 1596.75, 1596.77, 1596.770, 1596.78 and 1596.791, Health and Safety Code.

102358 LICENSE EXEMPTIONS

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code, and Section 1597.52 1596.81, Health and Safety Code. Reference: Section 1597.51 and 1596.792, Health and Safety Code.

~~102368~~~~88008~~ LICENSE OR REGISTRATION~~102368~~~~88008~~

- (a) The license or registration shall be available in the facility upon request.
- (b) The license or registration shall not be transferred to other individuals or locations.
- (c) Any person 18 years of age or over may apply for a license or registration regardless of age, sex, race, religion, color, political affiliation, national origin, handicaps, or marital status.

~~102369~~~~88008~~ APPLICATION FOR INITIAL LICENSE~~102369~~~~88008~~

- (a) To apply for a license to operate a Family Day Care Home, an applicant shall file a written application with the Department or licensing agency, on forms provided or approved by the Department.
- (b) The applicant shall provide all of the following information at the time of submission of the application:
 - (1) Name, address, telephone number and confirmation that the applicant is 18 years of age or over.
 - (2) Age and number of children to whom care will be provided.
 - (3) Name and age of every person residing in the home where care is to be provided.
 - (4) A statement that the applicant will comply with all regulations and laws governing Family Day Care Homes.
 - (5) The information required by Health and Safety Code Sections 1597.52(b) and 1597.54(a)-(e).
 - (6) Fingerprint cards from all persons specified in Health and Safety Code Section 1522(b).
1596.81
Health and Safety Code Sections 1597.54(a), (b), (c), (d), and 1597.52(b) generally require:
 - (A) A brief statement confirming that the applicant is financially secure to operate a family day care home for children.
 - (B) The applicant shall provide evidence that the family day care home contains a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal.
 - (C) One fingerprint card of the operator of the family day care home, and any other adult living in the same location, or regularly in the home providing care.

102368 Licence or Registration

NOTE: Authority cited: Sections 15573 and 15574, Welfare and Institutions Code; and Section 1597.57, Health and Safety Code. Reference: Section 1597.57, Health and Safety Code

102369 Application for Initial License

NOTE: Authority cited: Sections 10583 and 10584, Welfare and Institutions Code; Section 1597.52, 1596.81, Health and Safety Code. Reference: Sections 1597.54 and 1597.57 Health and Safety Code.

102369~~88008~~ APPLICATION FOR INITIAL LICENSE (Continued)102369~~88008~~

- (D) *Evidence of a current tuberculosis clearance received during the last year, for the caregiver and assistant caregiver, and any other adult living in the same location, or regularly in the home providing care.*
- (E) *A statement, signed under penalty of perjury, from the applicant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars (\$50) or less.*

102369.1~~88010~~ PILOT PROJECT REGISTRATION102369.1~~88010~~

- (a) Any person desiring to register to operate a Family Day Care Home for children pursuant to Health and Safety Code Section 1597.62 shall file a written application with the Department or licensing agency on forms provided or approved by the Department.
- (b) The applicant shall provide all of the information required in Health and Safety Code Section 1597.62(b) at the time of submission of the application.

Health and Safety Code Section 1597.62(b) requires:

- (1) *Name.*
- (2) *Age and sex.*
- (3) *Address.*
- (4) *Telephone number.*
- (5) *Age and number of children the registrant expects to care for.*
- (6) *Size of home.*
- (7) *Outdoor space available.*
- (8) *Records maintained on children in care.*
- (9) *Provisions for meals and snacks.*
- (10) *Fingerprint application.*
- (11) *Evidence of negative tuberculosis test.*
- (12) *A statement signed under penalty of perjury from the registrant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars (\$50) or less.*
- (13) *A statement, signed under penalty of perjury from the registrant that fire safety, poison control, first aid procedures, disaster and emergency plans, and swimming pool safety are appropriate and in substantial conformity with the regulations in this regulation section.*

102369 Application for Initial License

Note: Authority Cited: Sections 10853 and 10854, Welfare and Institutions Code, ^{and} Section 1597.52 15-96.81, Health and Safety Code. Reference: Sections 1597.54 and 1597.57 Health and Safety Code.

~~102369.1~~~~88010~~

PILOT PROJECT REGISTRATION (Continued)

~~102369.1~~~~88010~~

- (c) Submission of all of the required information shall be considered completed registration, which shall be sufficient to permit continued operation of a Family Day Care Home

- (d) Family Day Care Homes registered pursuant to this section must maintain substantial compliance with regulations governing licensed Family Day Care Homes.

~~102370~~~~88012~~

CRIMINAL RECORD CLEARANCE

~~102370~~~~88012~~

If the applicant or registrant is unable to provide the statements required by Health and Safety Code Sections 1597.52(b) and 1597.54(c), the license shall be denied, suspended or revoked. If the applicant or registrant has a record of conviction of a crime, other than a minor traffic violation, as determined in accordance with Health and Safety Code Section 1597.59(a), the license shall be suspended in accordance with Health and Safety Code Section 1597.52(b). The facility shall be ordered to cease and desist operation in accordance with Health and Safety Code Section 1528(d) and the Department may initiate other legal proceedings in accordance with Health and Safety Code Sections 1541 and/or 1543, or take other action as necessary including referral for criminal prosecution and/or civil proceedings.

Health and Safety Code Sections 1597.52(b) and 1597.54(c) require, in general:

- (A) A statement, signed under penalty of perjury, from **the** applicant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars (\$50) or less.
- (B) The fingerprints of any operator of a family day care home or any other adult living in the same location, or regularly in the facility providing care.
- (C) If it is determined that the applicant does have a criminal record pursuant to the criminal records check provided in subdivision (a) of Section 1597.59, the license shall be suspended pending an administrative hearing pursuant to Section 1550. If any other adult living at the same location is found to have a criminal record, the license may be suspended pending an administrative hearing, **unless the licensee removes those individuals from the home.**

1023691 Pilot Project Registration

Note: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1597.52 1596.81, Health and Safety Code. Reference: Section 1597.54 Health and Safety Code.

102370 Criminal Record Clearance

Note: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1597.52 1596.81 Health and Safety Code. Reference: Sections 11541, 11543 (2) and 1597.59, Health and Safety Code.

102370.1~~88014~~ EXCEPTIONS TO CRIMINAL RECORD CLEARANCE REQUIREMENTS102370.1~~88014~~

- (a) If it is found that the applicant or registrant or any other person residing at or regularly in the home during the hours of care, has ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less, the application for licensure shall be denied or the license shall be revoked, unless (1) or (2) below apply:
- (1) Such person has been granted a full and unconditional pardon for the offense, by the governor.
- (2) After a review of the record, the Director determines that such a person is of such good character as to justify issuance of a license. Factors the Director may consider in justifying issuance of a license shall include, but are not limited to:
- (A) The nature of the offense committed.
- (B) Time elapsed since the offense was committed, and the number of offenses.
- (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
- (D) Activities since conviction, such as employment, education, or participation in therapy, that would indicate rehabilitation.
- (E) Character references.
- (F) A Certificate of Rehabilitation from a Superior Court.

102391~~88016~~ DENIAL OF A LICENSE102391~~88016~~

- (a) When the requirements for licensure are not met, the Department shall deny the application within 30 days after receipt of a completed application.
- (b) If the application is denied, Health and Safety Code Section 1596.871 ~~1526~~ shall apply.

Health and Safety Code Section 1526 states, generally:

Immediately upon the denial of any application for a license, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted therein.

- (c) An application for initial or renewal licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

- (1) *Section 11165, subdivision (g) of the Penal Code states:*

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

102370.1 Exceptions to Criminal Record Clearance Requirements

Note: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 1597.5-7 1596.81, Health and Safety Code. Reference: Section 1597.54(b), Health and Safety Code.

~~102391~~~~88016~~ DENIAL OF LICENSE (Continued)~~102391~~~~88016~~(2) *Section 273(a) of the Penal Code states:*

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(3) *Section 273(d) of the Penal Code states:*

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

(4) *Section 1531.5(c) of the Health and Safety Code states:*

Child abuse means a situation in which a child suffers from any one or more of the following:

(A) Serious physical injury inflicted upon the child by other than accidental means.

(B) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(C) Going without necessary and basic physical care.

(D) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(E) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

(d) No limitation shall be imposed on the licensee or printed on the license solely on the basis of a written or oral admission by the licensee to the use of corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code on his/her own child(ren).

(1) *Whenever possible, the licensee shall not use corporal punishment on his/her own children in the presence of the child(ren) in placement.*

102391 Denial of License

Note: Authority Cited: Sections 195 & 31 and 10584, Welfare and Institutions Code; and Section 1597.54 1596.81, Health and Safety Code. Reference: Section 1597.54 1597.59, Health and Safety Code.

~~102383~~~~88018~~ TERM OF AN INITIAL OR RENEWAL LICENSE~~102383~~~~88018~~

- (a) The term of the license shall be as specified in Health and Safety Code Section 1597.58.

Health and Safety Code Section 1597.58 states, generally:

- (A) *The initial or renewal of a Family Day Care license shall expire three (3) years from the date of issuance.*
- (B) *A renewal application shall be filed, with the Department or Licensing Agency, thirty (30) days prior to the expiration date. Failure to make an application for renewal within the prescribed time limit shall result in expiration of the license.*

- (b) The license shall be automatically renewed if the renewal application has been filed 30 days prior to the expiration date as specified in Health and Safety Code Section 1597.58.

~~102383~~~~88020~~ EXPIRATION OF REGISTRATION~~102383.1~~~~88020~~

The registration pilot project shall expire on January 1, 1983. The Department or licensing agency shall notify the registrant, in writing, of the approaching expiration date at least 60 days prior to the expiration.

~~102393~~~~88022~~ REVOCATION OR SUSPENSION OF A LICENSE OR REGISTRATION~~102.393~~~~88022~~

- (a) The Department shall have the authority to suspend or revoke any license as specified in Health and Safety Code Section 1550.

Health and Safety Code Section 1550 states, in general: The following are grounds for suspension or revocation:

- (A) *Violation by the licensee of any of the provisions of Chapter 3.6 of the Health and Safety Code or of the rules and regulations promulgated under the act.*
- (B) *Aiding, abetting, or permitting the violation of any provision of Chapter 3.6 of the Health and Safety Code of the rules and regulations promulgated under the Act.*
- (C) *Conduct in the operation or maintenance of a community care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.*

102383 Term of an Initial or Renewal License

Note: Authority cited: ~~Statutes~~ 1955/3 and 1955/4, ~~and~~ Institutions Code, Section 1597.51 ~~7~~ 1596.81, Health and Safety Code. Reference: Section 1597.58 Health and Safety Code.

102383.1 Expiration of Registration

Note: Authority cited: ~~Statutes~~ 1955/3 and 1955/4, ~~and~~ Institutions Code and Section 1597.152 1596.81, Health and Safety Code. Reference: Section 1597.62, Health and Safety Code.

~~102393~~~~88022~~**REVOCATION OR SUSPENSION OF A LICENSE
OR REGISTRATION (Continued)**~~102393~~~~88022~~

The director may temporarily suspend any license or registration prior to any hearing when, in his opinion, such action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee or registrant of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee or registrant, the director shall within 15 days set the matter for hearing, and the hearing shall be held as soon as possible; it shall be requested that it be held within 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination of the merits within 30 days after the original hearing has been completed.

~~102416.5~~~~88024~~**STAFFING RATIO AND CAPACITY**~~102416.5~~~~88024~~

- (a) The maximum number of children, including the licensee's own children under age 12, for whom care shall be provided when there is no assistant provider in the home shall be either:
 - (1) Four infants.
 - (2) Six children, no more than three of whom may be infants.
- (b) The maximum number of children, including the licensee's and assistant provider's own children under age 12, for whom care shall be provided when there is an assistant provider in the home shall be twelve children, no more than four of whom may be infants.
- (c) A Family Day Care Home shall have a maximum capacity of 12 provided that staffing ratios are maintained.
- (d) The capacity specified on the license shall be the maximum number of children to whom care can be provided.

102393 Revocation or Suspension of a License or Registration

*NOTE: Authority cited: Sections 15553 and 15554 Welfare and Institutions Code; and Section 15997.57 1596.81, Health and Safety Code.
Reference: Sections 1550, 1551, and 1597.16 1596.885 and 1596.886 Health and Safety Code.*

102416.5 Staffing and Ratio Capacity

NOTE: Authority cited: Sections 15553 and 15554 Welfare and Institutions Code; and Section 1597.57 1596.81, Health and Safety Code. Reference: Section 1597.57 Health and Safety Code.

~~102371~~~~88026~~ FIRE SAFETY CLEARANCE~~102371~~~~88026~~

A fire safety clearance by the State Fire Marshal shall be required for any Family Day Care Home which is licensed for seven or more, and when one or more nonambulatory children, as defined in Health and Safety Code Sections 13131 and 13131.3, are in care.

(1) *Health and Safety Code Section 13131 states:*

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

(2) *Health and Safety Code Section 13143 provides generally:*

A fire clearance shall not be required if the family day care home is providing care for:

(A) *Six or fewer ambulatory children, and/or*

(B) *Children two years of age or younger.*

~~102417~~~~88028~~ OPERATION OF A FAMILY DAY CARE HOME~~102417~~~~88028~~

- (a) The licensee or registrant shall be present in the home and shall insure that the children are supervised at all times while children are in care, except when circumstances require his/her temporary absence. The licensee or registrant shall arrange for a substitute adult to care for and supervise the children during his/her absence. Temporary absences shall not exceed 20 percent of the hours that the facility is providing care per day.
- (b) The home shall be kept clean and orderly, with heating and ventilation for safety and comfort.
- (c) The home shall maintain telephone service.
- (d) The home shall provide safe toys, play equipment and materials.
- (e) When a child shows signs of illness he/she shall be separated from other children and the nature of the illness determined. If it is a communicable disease he/she shall be separated from other children until the infectious stage is over.
- (f) If food is brought from the children's homes, the container shall be labeled with the child's name and properly stored or refrigerated.
- (g) The home shall be free from defects or conditions which might endanger a child. Safety precautions shall include but not be limited to:

102371 Fire Safety Clearance

NOTE: Authority cited: Sections 10553 and 10554 of the Labor
Institutions Code; add Section 1547.52 1596.81, Health and
Safety Code. Reference: Sections 1597.63, 13131, 13131.3,
and 13143, Health and Safety Code.

102417~~88028~~**OPERATION OF A FAMILY DAY CARE HOME (Continued)**102417~~88028~~

- (1) Fireplaces and open-face heaters shall be screened to prevent access by children. The home shall contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal.
- (2) Gas heaters shall be properly vented and permanently installed.
- (3) Where children less than five years old are in care, stairs shall be fenced or barricaded.
- (4) Poisons, detergents, cleaning compounds, medicines and other hazardous substances shall be stored where they are inaccessible to children.
- (5) All in-ground swimming pools shall have at least a five foot fence or covering inspected and approved by the licensing agency. Fencing shall be so constructed that it does not obscure the pool from view, cannot be easily climbed by children and is self-latching at the top of the gate. If a pool cover is used, it shall be strong enough to completely support the weight of an adult.
 - (A) Bodies of water including but not limited to above ground pools which cannot be emptied after each use, fish ponds, sunken wading pools, spas, and hot tubs shall be made inaccessible when not in use, by fencing or covering. If a cover is used, it shall be strong enough to completely support the weight of an adult.
- (6) Outdoor play areas shall be either fenced, or outdoor play shall be supervised by the licensee or caregiver.
- (7) Firearms, and other dangerous weapons shall be kept in locked cabinets during the hours care is provided.
- (8) An emergency information card shall be maintained for each child and shall include the child's full name, telephone number and location of a parent or other responsible adult to be contacted in an emergency, the name and telephone number of the child's physician and the parent's authorization for the licensee or registrant to consent to emergency medical care.
- (9) Each Family Day Care Home shall have a written disaster plan of action prepared on a form approved by the licensing agency. All children, age and ability permitting, provider and assistant provider, and other members of the household shall be instructed in their duties under the disaster plan. As new children are enrolled, age and ability permitting, they shall be informed promptly of their duties as required in the plan.

102417 Operation of a Family Day Care Home

NOTE: Authority cited: Sections 15953 and 15954, Welfare and Institutions Code, and Section 1597.5 and 1596.81, Health and Safety Code. Reference: Sections 1597.51(k) and 1597.162 (b) 1596.72, 1596.73 and 1597.30, Health and Safety Code.

REV. 3094 replaces

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~~88030~~

INSPECTION AUTHORITY

~~102395~~
~~88030~~~~88030~~

(a) In accordance with the provisions of Health and Safety Code Section 1597.55:

- (1) The licensee shall permit the licensing agency to inspect the facility for compliance with or to prevent violations of family day care statute or regulation during the facility's normal business hours or at any time family day care services are being provided at the facility.
- (2) The licensee shall permit the licensing agency to inspect any part of the facility in which family day care services are provided or to which children have access.

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SITE VISITS

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- (a) Site visits to licensed Family Day Care Homes shall be made in accordance with Health and Safety Code Section 1597.55.

Health and Safety Code Section 1597.55 states, in general:

No site visitations, or unannounced visits or spot checks shall be made except as provided in this section.

- (1) *A site visit shall be required prior to the initial licensing of the applicant.*
- (2) *An unannounced site visitation shall be required for the renewal of a license.*
- (3) *The Department or licensing agency shall make an unannounced site visitation on the basis of a complaint and a follow-up visit as provided in Health and Safety Code Section 1597.56.*
- (4) *In addition to any site visitation or spot check authorized under this section, the Department shall annually make unannounced visits on 10 percent of all family day care homes for children licensed under this chapter. The unannounced visits may be made at any time, including the time of a request for a renewal of a license.*

- (b) Site visits to registered Family Day Care Homes shall be made in accordance with Health Code Section 1597.62(d) and (e).

Health and Safety Code Sections 1597.62(d) and (e) state generally: The Department shall institute a system of random visits to 10 percent of the registered homes during the pilot registration program, with appropriate reporting on the extent to which the system is working satisfactorily, and shall develop procedures to be followed in the event of complaints about the home, including visits and follow-up visits.

102395 Inspection Authority

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 1547.52 1596.81, Health and Safety Code. Reference: Section 1597.55, Health and Safety Code.

102396 Site Visits

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 1547.52 1596.81, Health and Safety Code. Reference: Sections 1596.852, ~~1597.55~~ 1597.55 and 1597.62(d), Health and Safety Code.

~~102357~~~~102357~~~~88034~~

OPERATION WITHOUT A LICENSE OR REGISTRATION

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- (a) If the licensing agency has reason to believe that family day care is being provided without a license or registration, the licensing agency shall:
- (1) Conduct a site visit to:
 - (A) Determine whether the home is operating without a license or registration.
 - (B) Determine whether continued operation of the facility will be dangerous to the health and safety of the children in care.
 - (2) Notify the unlicensed provider in writing of the requirements for such licensure or registration.
 - (3) Issue a Notice of Operation in Violation of Law if it is found and documented that continued operation of the facility will be dangerous to the health and safety of the children. Situations endangering the health and safety of the children shall include, but not be limited to:
 - (A) Evidence of physical or mental abuse.
 - (B) Children left unattended or left with a minor.
 - (C) Clear evidence of unsanitary conditions.
 - (D) Fire safety/fire hazards.
 - (E) Unfenced or accessible pools or other bodies of water.
 - (F) Hazardous physical plant.
 - (4) Issue a Notice of Operation in Violation of Law if the unlicensed provider does not apply for a license or registration within 15 working days from the date of notification.

NOTE: Authority cited: Sections 1553 and 1554, Welfare and Institutions Code and Section 1597.52, 1596.81, Health and Safety Code. Reference: Section 1508 and 1597.61, Health and Safety Code.

102423~~88038~~ PERSONAL RIGHTS102423~~88038~~

- (a) Each child receiving services from a Family Day Care Home shall have certain rights which shall not be waived or abridged by the licensee or registrant, regardless of parental consent or authorization. These rights include, but are not limited to the following:
- (1) To be treated with dignity in his/her personal relationship with staff and other persons.
 - (2) To receive safe, healthful, and comfortable accommodations, furnishings, and equipment.
 - (3) To have parents or guardians informed by the licensee of the provisions of the law regarding complaints and the procedures for registering complaints confidentially, including, but not limited to the address and telephone number of the licensing agency's complaint unit.
 - (4) To not be subjected to physical or unusual punishment, humiliation, mental abuse, or punitive interference with daily functions of living, such as eating, sleeping or toileting.
- (b) Parents, legal guardians or authorized representatives of children in care shall be given a consumer education and awareness handout by the licensee or registrant. Such handout shall be provided by the Department and distributed to licensees and registrants by the licensing agency.

102395~~88038~~ LICENSEE OR REGISTRANT COMPLAINTS102395~~88038~~

- (a) Each licensee or registrant shall have the right, without prejudice or risk of discriminatory treatment by the licensing agency, to bring to the attention of the licensing agency any action or behavior by the licensing representative that he/she believes is a wrongful application of these regulations, or capricious enforcement of them.
- (b) The licensee or registrant shall have the right to complain to the licensing agency regarding a review of any disputed issues.

102423 Personal Rights

NOTE: Authority cited: Sections 15553 and 15554 Welfare and Institutions Code; Child Section 1597.52 1596.81, Health and Safety Code. Reference: Section 1597.50(a) 1597.30, Health and Safety Code.

102395 Licensee or Registrant Complaints

NOTE: Authority cited: Sections 15553 and 15554 Welfare and Institutions Code; and Section 1597.52 1596.81, Health and Safety Code. Reference: Section 1597.56 Health and Safety Code.

102419~~88068.1~~

ADMISSION PROCEDURES

102419~~88068.1~~

- (a) Within 30 days of receipt of an initial supply of child abuse prevention pamphlets furnished by the Department, the licensee shall distribute a pamphlet to the parent of each child being cared for in the home.
- (1) The licensee shall request the parent to sign and date a receipt that the parent has received and read the pamphlet.
- (b) At the time of acceptance of each child into care, the licensee shall provide the child's parent with a copy of the pamphlet.
- (1) The licensee shall request the parent to sign and date a receipt that the parent has received and read the pamphlet.

102421~~88070~~

CHILD'S RECORDS

102421~~88070~~

- (a) The licensee shall maintain, in the home, the receipt signed and dated by the parent acknowledging receipt of the child abuse prevention pamphlet required in Section ~~88068.1~~ 102419.1.
- (1) If the parent refuses to sign a receipt for the pamphlet, a dated notation to that effect, containing the parent's name and telephone number, shall be retained with the receipts.
- (b) The signed and dated receipts and notations shall be retained for at least three years following termination of service to the child.

102419 Admission Procedures

Authority Cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.872 and 1597.30, Health and Safety Code; and Resolution Chapter 147.

102421 Child's Records

Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.872 and 1597.30, Health and Safety Code; and Resolution Chapter 147.

FAMILY DAY CARE HOMES FOR CHILDREN

STATE OF CALIFORNIA — HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES

**FAMILY DAY CARE
CRIMINAL RECORD STATEMENT**

INSTRUCTIONS: *This form must be completed by each individual over the age of 18 who resides in the proposed Family Day Care Home or would function as an Assistant or co-Caregiver in the Family Day Care Home. Submit with fingerprint cards to licensing agency*

Have you been convicted of a crime other than a minor traffic violation for which the fine was \$50.00 or less? ☐ Yes ☐ No

If yes, please provide the licensing agency with a signed statement indicating the nature and circumstances of the crime(s).

I declare under penalty of perjury that I have read and understand the information contained on this sheet and that my responses and accompanying attachments are true and correct.



SIGNATURE

DATE

LIC 179A (9-81) (CONF)

FAMILY DAY CARE HOMES FOR CHILDREN

STATE OF CALIFORNIA — HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES

INSTRUCTIONS THIS FORM IS INTENDED FOR USE BY APPLICANTS TO OPERATE A FAMILY DAY CARE HOME TYPE OR PRINT CLEARLY.

APPLICATION FOR FAMILY DAY CARE LICENSE

IDENTIFYING INFORMATION

NAME	OVER 18 YEARS OLD <input type="checkbox"/> YES <input type="checkbox"/> NO
ADDRESS	TELEPHONE ()

OTHERS IN HOME

NAME	AGE	RELATIONSHIP

OPERATIONAL INFORMATION

REQUESTED CAPACITY

I/WE HEREBY CERTIFY THAT I/WE:

- A. Have sufficient financial resources to maintain the standards of service required by statutes and regulations to operate a family day care home *(initial application only)*
- B. Have attached fingerprint cards for myself/ourselves *(initial application only)*
- C. Have attached evidence of a negative tuberculosis clearance for all care providers. *(initial application only)*
- D. Have a fire extinguisher and/or a smoke detector device in my/our family day care home which meets standards established by the State Fire Marshal. *(initial and renewal application)*
- E. Have submitted or attached fingerprint cards for all other adults that reside in my/our family day care home. *(initial and renewal application)*
- F. Accept responsibility to comply with Health and Safety Code and regulations concerning licensing. *(initial and renewal application)*

I/WE DECLARE UNDER PENALTY OF PERJURY THAT THE STATEMENTS ON THIS APPLICATION AND ON THE ACCOMPANYING ATTACHMENTS ARE CORRECT TO MY/OUR KNOWLEDGE.

APPLICANT SIGNATURE	DATE
APPLICANT SIGNATURE	DATE

LIC 279 (9/81)

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

85 05301

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0984-41

RECEIVED
MAY 30 10 15 AM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JUL 2 1985

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JUL 2 - 1985

At 4:34 o'clock P.M.

MARCH FONG EU, Secretary of State

By Margie Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Dion Webb, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED
69-206.1 and 213.7

SECTIONS ADOPTED
69-206.5

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

March 1, 1985

b. DATE OF ADOPTION OF REGULATION(S)

May 29, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

None.

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☒ Effective on July 2, 1985 (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☒ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Amend Section 69-206.1 and adopt new Section 69-206.5 to read:

69-206 ELIGIBILITY FOR REFUGEE CASH ASSISTANCE

69-206

.1 Eligibility Factors

Requirements of categorical relatedness applicable to the AFDC Program are waived for aid payments assistance under RCA (see Section 69-203.4) and aid shall be granted without regard to the presence of children, age or number of hours worked. Factors which must be considered in determining eligibility are: time eligibility (69-206.21); refugee status (69-203.1); income and resources (69-207); income eligibility (69-206.4) attendance in an institution of higher education (69-206.5) and registration, employment and employment-directed educational/training requirements (69-208). In addition to these factors, as a condition for receiving assistance, the applicant/recipient shall, if applicable, provide the name of his/her sponsor or responsible VOLAG.

.2 (Continued)

.3 (Continued)

.4 (Continued)

.5 Full-time Student in an Institution of higher Education

.51 Full-time students in a college program in an institution of higher education are not eligible for RCA.

.511 A full-time student is a student attending an institution of higher education at least:

- a. 12 semester hours or 12 quarter hours per academic term in those institutions using standard semester, trimester or quarter hour systems;
- b. 24 semester hours or 36 quarter hours per academic year for institutions using credit hours to measure progress but not using semester, trimester or quarter systems, or the prorated equivalent for programs of less than one academic year;
- c. 24 clock hours per week for institutions using clock hours;

- d. The following formula for those institutions using both credit and clock hours: If the sum of the following fractions is equal to or greater than one - the number of credit hours per term divided by 12 plus the number of clock hours per week divided by 24;
- e. A series of courses or seminars which equal 12 semester hours or 12 quarter hours in a maximum of 18 weeks; or
- f. The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

.512 An "institution of higher education" is a:

- a. Public or private nonprofit educational institution which provides:
 - 1. An educational program for which it awards an associate, baccalaureate, graduate, or professional degree; or
 - 2. At least a two-year program which is acceptable for full credit toward a baccalaureate degree; or
 - 3. At least a one-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation; or
- b. Proprietary Institution of higher education which provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation; or
- c. Post secondary vocational institution which is a public or private nonprofit educational institution and provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation.

.52 Refugees who are enrolled and participating in DSS-funded training programs offered at an institution of higher education on a full-time basis as part of an

employability plan developed by the CWD or its designee, when such training is less than one year, shall not be denied or discontinued from RCA.

- .53 Refugees who are enrolled and participating in DSS-funded training programs offered at an institution of higher education on less than a full-time basis as part of an employability plan developed by the CWD or its designee, when such training is less than one year in duration, shall not be denied or discontinued from RCA when attendance in classes in a college program offered at the institution results in full-time status.

Authority: Welfare and Institutions Code Section 10553 and 10554.

Reference: Welfare and Institutions Code Section 10553 and 10554.

Adopt new Section 69-213.7 to read:

69-213 TERMINATION OF AID (Continued)

69-213

.7 A refugee becomes a full-time student in a college program in an institution of higher education, except as provided in Sections 69-206.52 and .53.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 10554.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0484-16

RESUBMISSION

8506064

FILED

In the office of the Secretary of State
of the State of California

JUL 8 - 1985

At 4:37 o'clock P.M.

MARCH FONG EU, Secretary of State

By Catherine Patrick

Deputy Secretary of State

RECEIVED FOR FILING

JUN 6 10 56 AM '85

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED

APPROVED FOR FILING

JUL 8 1985

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Jinda S. McKeehan

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

LEAVE BLANK

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Andy Molina, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 22 89502, 89613, 89845(c), 89907, 89935, 89943

SECTIONS ADOPTED

89950, 89613(d), 89845(e), 89909, 89911, 89922, 89925

SECTIONS REPEALED

89919

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☐ No

☒ Yes, if yes give date of previous filing March 15, 1985

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

June 29, 1984

b. DATE OF ADOPTION OF REGULATION(S)

June 4, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

May 17, 1985-- May 31, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

Date of filing with the

c. ☒ Effective on Secretary of State (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☒ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

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Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Amend Section 89502 to read:

89502 DEFINITIONS

89502

In addition to the definitions included in Health and Safety Code Sections 1771 and 1773.5, the following apply:

"Accommodation Fee*" Same means the same as Entrance Fee; Ssee Health and Safety Code Section 1771(f).

"Accommodation Lease*" Same means the same as Life Lease.

"Aged Person*" A means a person over 62 years of age; Ssee Health and Safety Code Section 1502.

"Cancellation Period" (for Refund of Real Property): Ssee Recision, right of.

"Cancellation During Trial Residence Period*" Ssee Health and Safety Code Section 1779.6.

"Deposit Subscription" means the installment payment of the accommodation fee made by a subscriber to a facility during development or construction, pursuant to an approved permit to sell deposit subscriptions.

"Disaffirmance, Right* of" Ssee Recision, Right of.

"Filing Fee*" Same means the same as Processing Fee.

"Legal Entity*" A means a sole proprietorship, corporation, partnership, association, joint venture or other organization specifically designated as responsible for the facility's policy and operation.

"Life Lease*" A means a landlord/tenant relationship where in the tenant obtains only the right to possess a defined living unit for life. In a life lease there is no obligation, nor or intent, to provide care and services to the tenant at any time, present or future.

"Per Capita Cost*" A means a facility's operating expenses divided by the average number of residents. Depreciation is excluded when computing cash per capita cost for calculating reserve requirements.

"Personal Care Unit" means a living unit within a physical area of a facility specifically designed to provide additional support

services to residents who require higher levels of living assistance.

"Processing Fee:" An means an advance payment by the transferor to cover administrative costs of processing the application of a prospective resident.

"Recision, Right of:" Ssee Health and Safety Code Section 1771.2.

Note that the right of recision is effective within a 90 day cancellation period which might not correspond with the 90 day trial residence period.

"Subscriber" means the person who has applied to be a resident in a facility under development or construction, who has entered into a deposit subscription agreement.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Section 1771.

(2) Adopt New Section 89550 to read:

89550 APPROVAL OR DENIAL OF APPLICATIONS

89550

(a) Within 15 working days from the date of receipt of an initial application for a certificate of authority or a permit to sell deposit subscriptions, the Department shall acknowledge receipt of the application.

(b) Within 45 calendar days of receipt of an application, the Department shall review the application for completeness and adequate documentation, and shall:

(1) Notify the applicant of additional forms, documents, information, or materials required to comprise a complete application and allow the applicant 90 calendar days to submit the requested information or materials; or,

(2) Determine that the application is complete as submitted.

(A) An application for a certificate of authority shall be deemed complete when the applicant has submitted all forms and documents required under Section 89613.

(B) An application for a permit to sell deposit subscriptions shall be deemed complete when the applicant has submitted all forms and documents required under Section 89907.

(c) Within 7 calendar days from the date SDSS determines that an application is complete, the Department shall approve the application or issue a Notice of Denial.

(d) Based upon the Department's experience in issuing permits over a two-year period, processing time from receipt of the application to final permit decision was six calendar days, minimum; and 67 calendar days, maximum. The median time period was 28 calendar days.

(e) The Notice of Denial shall:

(1) Be in writing.

(2) State that the application is denied.

(3) List the reasons(s) for the denial.

(4) Explain the right of appeal.

(5) State that the applicant has 30 days from the date that Notice of Denial was mailed to appeal the denial, and where to send his/her appeal.

(f) If the applicant appeals the denial, further proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of part 1, Division 3, Title 2 of the Government Code.

Authority: Health and Safety Code Section 1781.

Reference: Government Code Section 15374.

(3) Amend Section 89613 and adopt subsection 89613(d) to read:

89613 APPLICATION FORMS AND ATTACHMENTS

89613

In addition to the provisions of Health and Safety Code Sections 1771.3, 1771.4, 1771.5, 1771.6, 1771.8, 1774, and 1783; the and to the extent that the items are not in the Department's possession, the following shall apply:

~~{The required documents shall accompany an application for issuance of a certificate to the extent that the items are not already in the Department's possession}~~

- (a) Copies of appropriate written licenses or copies of applications which have been submitted to the appropriate licensing agencies shall accompany the application.
- (b) Certification, required by Health and Safety Code Section 1771.4, shall be by a CPA or public accountant.
- (c) The requirement of Health and Safety Code Section 1774 shall be met by evidence that insurance or a bond for at least \$50,000 is in force.
- (d) Projected annual income statements, as prescribed in Health and Safety Code Section 1771.5, shall cover the entire duration of debt. Prevailing rates of interest, with no increases of revenues and expenses due to inflation shall be used as one set of assumptions.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Sections 1771.3, 1771.4, 1771.5, 1771.6, 1771.8, 1774, and 1783.

(4) Amend Section 89845(c) and adopt (e) to read:

89845 RESTRICTED FUNDS

89845

- (a) A The Department shall accept a sinking fund comprised of liquid assets may to be included in the liquid reserves if it is a replacement fund subject to disbursement during the succeeding year for such items as payment of principal and interest on mortgage or for operations.
- (b) Replacement funds which may only be used for capital improvements or repairs may shall not be included in liquid reserves. Replacement funds which may be used for operational costs or payments on mortgages or loans (or interest thereon) shall be permitted to may be included in the liquid reserves.
- (c) Deposits made by aged persons who have indicated their intent to establish residence at some future date prior to signing a life care contract, represent liabilities and shall be offset against liquid assets, if any, otherwise against any other assets.
- (d) Deposits which represent funds turned over to the facility by residents for safekeeping without relinquishing control thereof shall be offset against liquid assets, if any, otherwise against any other assets.
- (e) Deposit subscriptions or accommodation fees retained in escrow as required in Section 89943(c) and (d) shall be regarded as assets available for liquid reserves.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Section 1782.

(5) Amend Section 89907 to read:

89907 FILING APPLICATION FORMS AND ATTACHMENTS

89907

The application for permit to sell deposit subscriptions on life care contracts shall be completed on forms prescribed and supplied by the Department. A separate application ~~is~~ shall be required ~~to be filed~~ for each proposed project. In addition, the following items shall be attached to the application form or submitted before the permit is issued:

- (a) A copy of the completed application(s) for license for the proposed accommodations facility from the Department of Social Services, Community Care Licensing Division and/or the Department of Health Services, Licensing and Certification Division (pursuant to Sections 1250 et seq. and/or Section 1500 et seq. of the Health and Safety Code).
- (b) A copy of corporation documents if applicable unless they are already on file with the Department of Social Services. Documentation otherwise required for a certificate of authority application, required by Section 89613 and sections of regulations and statutory law referenced therein.
 - (1) articles of incorporation. Financial projections shall include an estimate of the facility occupancy six months after opening the facility or the project phase for which deposit subscriptions are being taken.
 - (2) by-laws.
 - (3) certificate showing authorization of a foreign corporation to do business in California (if applicable).
 - (4) resolution authorizing the filing of the application.
- (c) The proposed forms for life care contracts to be used by the applicant. the Department ~~will~~ review the contract forms pursuant to Article 3 of these regulations.
- (d) The proposed deposit subscription agreement form. The Department ~~will~~ shall provide a sample form on request. The agreement ~~shall~~ provide for the following:

- (1) An estimated date for completion within 36 months from the date of the application.
 - (2) Preparation in triplicate with executed copies to be transmitted to the subscribers and to the escrow agent.
 - (3) Refund of deposit subscription payments in the event of termination, death, or nonacceptance of the subscriber for residency.
 - (4) The amount of the processing fee (subject to approval of the Department).
 - (5) Provision for refund of the processing fee if the facility is not constructed by the estimated date of completion, or if the subscriber is not accepted for occupancy, or dies prior to execution of the life care contract.
- (ed) The proposed escrow agreement form. The Department will shall provide a sample on request. The agreement shall provide for the following:
- (1) The amount of the processing fee which is to be excluded from the escrow account if the processing fee is paid with the deposit. See Section 89927.
 - (2) Depositing of funds in the escrow account pursuant to Section 89929.
 - (3) Progress reports to the Department pursuant to Section 89933.
 - (4) Investment of escrow account funds pursuant to Section 89935.
 - (5) The date for final release of all funds.
 - (6) Release of escrow account funds pursuant to Section 89943.
- (ff) Financial statements as prescribed in Health and Safety Code Sections 1771.4, 1771.5 and 1771.8(n).
- (ge) A copy of the loan commitment, if the applicant expects to finance construction by a mortgage. (This may be submitted after the application is filed.)

- (hf) Evidence of bond pursuant to required by Section 89949.
~~{This document may be submitted after the application has been filed.}~~
- (ig) The name of the proposed escrow agent for approval by the Department. When the approved escrow agreement form has been executed by an escrow agent approved by the Department, a copy shall be provided to the Department.
- (jh) A copy of any advertising material regarding the proposed project prepared for distribution or publication. ~~{This material}~~ may be submitted after the application has been filed.}
- (i) A statement by the applicant(s) that they will keep the Department informed of any changes to the project plan as reflected in the application form and attachments.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Section 1773.5.

(6) Adopt New Section 89909 to read:

89909 DEPOSIT SUBSCRIPTION AGREEMENT FORM

89909

(a) The deposit subscription agreement shall provide for the following:

- (1) An estimated date for completion not to exceed 36 months from the date of application.
- (2) The identification of the unit subscribed to and the total accommodation fee for that unit.
- (3) Processing fee terms and conditions, including:
 - (A) The amount, which shall be subject to approval by the Department;
 - (B) A statement explaining the provider's policy regarding refund or retention of the processing fee in the event of voluntary termination or death of the subscriber;
 - (C) Notice that the processing fee shall be refunded within 30 days in the event that the subscriber is not accepted for occupancy, or if the facility is not constructed by the estimated date of completion and the Department determines that there is not satisfactory cause for such delay.
- (4) Requirements for deposit subscription payments by the subscriber.
- (5) A refund of deposit subscription payments within 30 days of notice of death of the prospective resident or his/her nonacceptance for residency.
- (6) Refund of deposit subscription payments within 30 days of notice of voluntary termination by prospective residents, except during construction of the facility when such refunds shall be made only after another prospective resident has reserved the unit and paid the necessary deposit subscription payments.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Section 1773.5.

(7) Adopt New Section 89911 to read:

89911 ESCROW AGREEMENT FORM

89911

(a) The escrow agreement shall provide for:

- (1) The amount of the processing fee, which is to be excluded from the escrow account, if the processing fee is paid with the deposit;
- (2) Deposit of funds in the escrow account;
- (3) Progress reports to the Department;
- (4) Investment of escrow account funds;
- (5) Release of escrow account funds as specified in Section 89943;

(b) The escrow agreement shall state that the escrow agent for the project shall neither be a lender nor have fiduciary responsibilities to lenders and/or bondholders for that project.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Section 1773.5.

(8) Repeal Section 89919 to read:

89919 DENIAL OF PERMIT APPLICATION

89919

(a) Notice of Denial shall be given by letter to the applicant.

This letter shall:

(1) State that the application is denied.

(2) List the reasons for denial.

(3) Explain the right of appeal and the 30-day time limit for filing an appeal.

(b) If the applicant appeals the denial, further proceedings will be conducted in accordance with Chapter 5, (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Section 1773.5.

(9) Adopt New Section 89922 to read:

89922 REQUIRED NUMBERS OF DEPOSIT SUBSCRIPTIONS

89922

When a provider plans to construct a life care facility using deposits from potential residents:

- (a) Before applicant commits to any major construction financing obligation, whether the sale of bonds or private borrowing, no fewer than sixty percent of the units projected to be occupied six months after opening of the facility (excluding skilled nursing, intermediate, and personal care) in accordance with Section 89907(b)(1), shall be reserved; with payments of no less than five percent of the accommodation fee for each unit deposited pursuant to the escrow agreement.
- (b) Before start of construction, no fewer than sixty percent of the units projected to be occupied six months after facility opening (excluding skilled nursing, intermediate, and personal care) in accordance with Section 89907(b)(1), shall be reserved; with total payments of no less than twenty percent of the accommodation fee for each unit deposited pursuant to the escrow agreement.
- (c) For projects to be developed in separately marketed phases, applicant may treat each phase of construction of units as a separate project for the purposes of computing the percentages set forth in subsections (a) and (b), provided that applicant's financial and occupancy projections reflect the phased unit development format.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Sections 1773.5 and 1781.

(10) Adopt New Section 89925 to read:

89925 ESCROWED DEPOSIT SUBSCRIPTIONS NOT TO BE USED 89925
FOR COLLATERAL

Deposit subscriptions or accommodation fees held in escrow shall not be pledged as security for any loan or other obligation prior to their release as specified in Section 89943 and the terms of the deposit subscription agreement.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Sections 1773.5, 1779.3(b),
1780, and 1781.

(11) Amend Section 89935 to read:

89935 EARNINGS FROM FUNDS IN ESCROW

89935

(a) As instructed by the permit holder, escrow funds may be invested in the manner approved for liquid assets in Health and Safety Code Section 1775(i), but earnings may not be released to the permit holder.

(b) If no interest is to be paid to subscribers, then interest earning shall be included in releases to the permit holder. However, if the facility is not constructed, interest is to be prorated to the subscribers even if the escrow agreement fails to specify the payment of interest to subscribers.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Section 1773.5. -

(12) Amend Section 89943 to read:

89943 RELEASE OF IMPOUNDED FUNDS FROM ESCROW

89943

(a) The escrow agent shall pay refunds to subscribers who terminate, upon written notice from the permit holder, in accordance with the agreement.

(b) The Department ~~will~~ shall instruct the escrow agent to release ~~impounded funds~~ escrowed deposit subscriptions or accommodation fees to the permit holder when all of the following requirements are met:

(1) Construction is at least 50 percent completed, according to the architect.

The requirements stated in Health and Safety Code Section 1773.5.

(A) The architect's statement shall be used to determine construction progress.

(B) "Subscribed to" is determined by compliance with payment terms of the deposit subscription agreement form as of the present percentage of completion.

(C) In calculating 50 percent subscribed to, skilled nursing, intermediate, and personal care units shall be excluded from the total available units.

(2) Construction is proceeding in accordance with licensing requirements.

(3) At least 50 percent of the units in the new facility (excluding skilled nursing, intermediate, and personal care) have been subscribed to.

(4) The Department, in consultation with the Life Care Contract Advisory Board ~~determines~~, has determined that there has been substantial compliance with projected receipts and expenditures annual income statements (which served as a basis for issuance of the permit to sell deposit subscriptions).

(c) If the requirements of Subsection (b) have been met except for substantial compliance with projected annual income

statements, which served as a basis for issuance of the permit to sell deposit subscriptions, the provider or permit holder shall submit a revised financial plan pursuant to Health and Safety Code Section 1790. The Department will authorize release of deposit subscriptions or accommodation fees from escrow when all of the following conditions are met:

(1) The revised financial plan is approved by the Department, and:

(A) Monthly reports indicate ongoing compliance with the approved plan; and,

(B) Approved assets are available in amounts sufficient to comply with statutory reserve requirements.

(d) If the requirements of Subsections (b) and (c) have been met except for approved assets sufficient to comply with statutory reserve requirements, the Department will authorize the ongoing release of portions of accommodation fees which are not refundable in case of voluntary withdrawal according to terms of the life care contract form in use, provided that at least 90 days prior to the release of the funds the permit holder or provider has posted a notice (approved by the Department) pursuant to Health and Safety Code Section 1784(a)(3).

The Department shall authorize release of the remaining deposit subscriptions or accommodation fees from escrow when the criteria of Subsections (b) and (c) have been met.

Authority: Health and Safety Code Section 1781.

Reference: Health and Safety Code Sections 1773.5, 1775, 1784(a)(3) and 1790.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0484-13

85060350

RECEIVED
JUN 3 10 25 AM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JUL 10 1985

Office of Administrative Law
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1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JUL 10 1985
At 4:24 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Marjorie Herzhberger*
Deputy Secretary of State

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AGENCY CONTACT PERSON AND POSITION
Angie Teixeira, Regulations Analyst

TELEPHONE 323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22 SECTIONS AMENDED
87510 (g), (h), and (i)
SECTIONS ADOPTED
87404 (a), (b), (c), (d), (e), (f), (g) and (h); and 87510 (f)
SECTIONS REPEALED
87404 (a), (b), and (c)

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

August 3, 1984

b. DATE OF ADOPTION OF REGULATION(S)

May 24, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☐ No ☒ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section, 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Repeal Sections 87404(a), (b), and (c) to read:

87404 CRIMINAL RECORD CLEARANCE

87404

(a) Except for community care residents, the following persons shall, prior to or within ten days following employment, residence or initial presence at the facility, submit completed fingerprint card(s) to the licensing agency for the purpose of conducting a criminal record review:

(1) The applicant for a license, including the chief executive officer of a corporation or other organization.

(2) The administrator or manager and night supervisor, and their designated substitute.

(3) Any other adult residing in the facility. Residing means the adult's legal residence or the place the adult lives the majority of the time.

(4) Any other adult regularly in the facility unless exempted by the licensing agency. In determining whether a fingerprint card must be submitted on such individuals, the licensing agency shall consider such factors as the following:

(A) Anticipated contact with the residents, including whether the adult will be in the facility while the residents are present or whether the adult will be in areas of the facility occupied by the residents. For example, adults who are in the facility only when residents are not present shall not require fingerprinting.

(B) The relationship of the adult to the resident(s) or to the licensee. For example, relatives of residents who may be regularly in the facility shall not require fingerprinting.

(C) Frequency, duration and nature of the adult's presence in the facility. For example, appliance repair persons, or similar short-term and/or irregular business contracts shall not require fingerprinting.

(D) Other factors or circumstances which would reasonably tend to minimize the risk of harm to the residents.

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(b) If the criminal record transcript of any of the above persons discloses conviction of a crime other than a minor traffic violation, the application shall be denied, or the person shall be prohibited from visiting, providing service and/or residing in that facility unless such person presents evidence satisfactory to the licensing agency or Department that he has been rehabilitated and presently is of such good character as to justify the issuance of the license or approval to provide service and/or reside in the facility.

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(c) Factors the licensing agency may consider as evidence of good character and rehabilitation include, but are not limited to:

- (1) The nature of the crime.
- (2) Time since the crime was committed and number of offenses.
- (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
- (4) Activities since conviction, such as employment, or participation in therapy or education, that would indicate changed behavior.
- (5) Granting by the Governor of a full and unconditional pardon.
- (6) Character references.
- (7) A certificate of rehabilitation from a superior court.

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Adopt new Section 87404 to read:

87404 CRIMINAL RECORD CLEARANCE

87404

(a) The licensing agency shall conduct a criminal record review of all persons specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

(1) Section 1522(a) of the Health and Safety Code provides in part:

Before issuing a license to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the applicant shall be denied, unless the director grants an exemption pursuant to subdivision (e) of Health and Safety Code Section 1522.

(2) Section 1522(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a client, residing in the facility.
- (C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

- (D) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct on-site supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with shall be exempt.
- (E) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (A) and (B), are exempt from fingerprinting requirements.
- (F) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(b) A fingerprint clearance shall be received by the licensing agency on all persons subject to criminal record review prior to issuing a license.

(c) All persons subject to criminal record review shall, prior to employment, residence, or initial presence in the facility be fingerprinted and sign a statement regarding prior criminal convictions as specified in Section 87510(f).

(1) If the signed statement indicates a conviction for any crime other than a minor traffic violation for which the fine was \$50 or less, the licensee shall immediately notify the licensing agency and the licensing agency will take appropriate action as specified in 87404(e).

(2) Completed fingerprint card(s) shall be submitted to the licensing agency within 20 days following employment, residence, or initial presence in the facility.

(d) In determining whether individuals must submit fingerprint card(s) as specified in Health and Safety Code Section 1522(b), the licensing agency shall consider the following:

(1) Anticipated type and degree of contact with the clients.

(2) Supervision received by the employee or volunteer.

(3) Duties of the employee or volunteer.

(4) Whether the facility constitutes the legal residence or the place an adult, other than the client, lives the majority of the time.

(e) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine for \$50 or less, the licensing agency shall take the actions specified in Health and Safety Code Section 1522(c).

(1) If the signed statement indicates that the person has been convicted of a crime other than a minor traffic violation for which the fine was \$50 or less, the licensing agency shall take the same actions as would be taken in 1522(c) if a criminal record transcript had been received.

(2) Section 1522(c) of the Health and Safety Code provides in part:

If it is determined by the Department of Social Services on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 273a or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The Department of Social Services may subsequently grant an exemption pursuant to subdivision (e).

(A) Section 273a of the Penal Code provides:

1. Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer or inflicts thereon unjustifiable physical pain or mental suffering or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county

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jail not exceeding one year, or in the state prison for 2, 3, or 4 years.

2. Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(B) Section 273d of the Penal Code provides:

1. Any person who willfully inflicts upon any child cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in the county jail for not more than one year.

(3) Section 1522(c) of the Health and Safety Code provides in part:

- (A) If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (e). The Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(f) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less, and an exemption pursuant to Section 87404(g), has not been granted, the licensing agency shall take the following actions:

- (1) For initial applicants, denial of the application.

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- (2) For current licensees, institution of legal remedies, including but not limited to revocation of the license.
- (3) For current or prospective employees, denial of the application or revocation of the license if the person continues to provide services and/or reside at the facility.
- (4) For convicted persons residing in the facility including spouses of the applicant, licensee, or employee, denial of the application or revocation of the license if the person continues to provide services and/or reside at the facility.

(g) After a review of the criminal record transcript, except for the crimes specified in Health and Safety Code Section 1522(e) the licensing agency or the Department shall have the authority to grant an exemption from (f) above. Exemption requests from the applicant/licensee shall be in writing and present evidence satisfactory to the Department or licensing agency that the subject individual has been rehabilitated and presently is of such good character as to justify the issuance of the license or the provision of service in the facility.

(1) The licensing agency shall have the authority to consider factors including but not limited to the following as evidence of good character and rehabilitation:

- (A) The nature of the crime.
- (B) Period of time since the crime was committed and number of offenses.
- (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
- (D) Activities since conviction, such as employment or participation in therapy or education, that would indicate changed behavior.
- (E) Granting by the Governor of a full and unconditional pardon.
- (F) Character references.
- (G) A certificate of rehabilitation from a superior court.

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- (2) Section 1522(e) of the Health and Safety Code provides in part:

However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in paragraph (1) of Section 273a or Section 273d of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

- (A) Section 667.5(c) of the Penal Code provides in part:

For the purpose of this section, "violent felony" shall mean any of the following:

1. Murder or voluntary manslaughter.
2. Mayhem.
3. Rape as defined in subdivision (2) of Section 261.
4. Sodomy by force, violence, duress, menace, or threat of great bodily harm.
5. Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
6. Lewd acts on a child under 14 as defined in Section 288.
7. Any felony punishable by death or imprisonment in the state prison for life.
8. Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided in Section 12022.7 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 451, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5.

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(h) The reasons for any exemption granted shall be in writing and kept by the licensing agency.

Authority: Health and Safety Code Section 1530.

Reference: Health and Safety Code Section 1522.

Adopt new Section 87510(f) and renumber current Sections 87510(f), (g), and (h) to read:

87510 PERSONNEL REQUIREMENTS-GENERAL (Continued)

87510

(f) Pending receipt of a criminal record transcript, as specified in Section 87404, and prior to employment or at initial presence in the facility, all employees and volunteers determined by the licensing agency to require criminal record clearances shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:

(1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation for which the fine was \$50 or less.

(2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violation for which the fine was \$50 or less.

(A) If a person has been convicted of a crime, other than a minor traffic violation for which the fine was \$50 or less, he/she shall also acknowledge that his/her continued employment or presence in the facility is conditioned on approval of the licensing agency.

~~(f)~~(g) All services requiring specialized skills shall be performed by personnel qualified by training or experience in accordance with recognized professional standards.

~~(g)~~(h) Residents shall not be used as substitutes for required staff but may, as a voluntary part of their program of activities, participate in household duties and other tasks suited to the resident's needs and abilities.

~~(h)~~(i) Volunteers may be utilized but may not be included in the facility staffing plan. Volunteers shall be supervised.

Authority: Health and Safety Code Section 1530.

Reference: Health and Safety Code Section 1522.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #1284-69

RECEIVED FOR FILING

JUN 10 1 11 PM '85

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING

JUL 10 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services

(AGENCY)

BY:

Linda S. McPherson

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

05 0610/1
FILED

In the office of the Secretary of State
of the State of California

JUL 10 1985

At 4:24 o'clock P.M.

MARCH FONG EU, Secretary of State

By

Raymond Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Diane Moritz Glazer, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: _____

SECTIONS ADOPTED

MPP 11-400.1 (f), (o); 11-403 (a) thru (k)

SECTIONS REPEALED

MPP 11-403.1, .2

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

February 22, 1985

b. DATE OF ADOPTION OF REGULATION(S)

June 7, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

May 24, 1985 thru June 7, 1985,
inclusive

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☐ No

☒ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☒ Effective on July 9, 1985 (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☒ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

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Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Adopt new MPP Section 11-400.1(f), (m), (n) and (o) and renumber current (d) through (p) to read:

11-400 AFDC-FOSTER CARE RATES (Continued)

11-400

.1 Definitions. (Continued)

(f) "Exclusive use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards and used exclusively by that homefinding agency for placements.

(g)

(h)

(i)

(j)

(k)

(l)

(m) New homefinding agency program - is one which:

(A) Serves an entirely different population at an entirely different level of service than that currently served by the homefinding agency's existing program(s); and

(B) Is either based in different exclusive use home(s) than the current program(s) operated by the homefinding agency, or the current program(s) operated by the homefinding agency is replaced by an entirely new program.

(n) New homefinding agency provider - is one who:

(A) Has not operated a homefinding agency or group home program for AFDC-FC funded children in the fiscal year preceding that for which the rate is being set; or

(B) Has operated a homefinding agency in the fiscal year preceding that for which the rate is being set but did not accept AFDC-FC funded children during that fiscal year; and

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(C) : Has not merely added a new program; increased the level of services provided; changed incorporation; reorganized; or changed name, location, ownership or license.

(o) Placement Agency shall be as defined in accordance with Section 45-101.1.

HANDBOOK

The term placement agency is defined in Section 45-101.1 as follows: Placement Agency means the agency with responsibility for placement and care of an AFDC-FC eligible child.

fj(s)

fk(t)

ft(u)

fm(v)

fn(w)

fo(x)

fp(y)

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Sections 11400 and 11404.

Repeal MPP Sections 11-403.1 and .2:

11-403 HOMEFINDING AGENCY RATES

11-403

- 1 The Department shall set rates for homefinding agencies for the fiscal year 1984/85 based on the homefinding agency's July 1, 1983 rate plus the percentage cost-of-living increase granted other Aid to Families with Dependent Children (AFDC) recipients in accordance with Welfare and Institutions Code Section 11453.
- 2 Homefinding agencies shall submit rate request documentation as requested by the Department by July 1, 1984.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Section 10553.

Adopt MPP Sections 11-403(a) through (k) to read:

11-403 HOMEFINDING AGENCY RATES

11-403

(a) Rate Determination Process

(1) The Department shall set rates for each homefinding agency utilized by counties which place AFDC-FC children.

(A) The rate for a homefinding agency program which provides treatment services for children who have treatment needs shall be set in accordance with Sections 11-403(a)(2) and 11-403(b)-(k).

1. As used in (A) above, "treatment needs" means that the placement agency, as defined in Section 11-400.1, has determined that the child has services needs which:

(i) Cannot be provided in an available family home;

HANDBOOK

(See family home definition specified in Section 11-400.1.)

(ii) Would require group home placement if the child was not referred to a homefinding agency; and

(iii) Can be met by the program offered by the homefinding agency to which the child is being referred.

(B) The rate for a homefinding agency program which does not provide treatment services shall be the basic rate as specified in Section 11-401.14.

1. A specialized care rate as defined in Section 11-400.1 may be paid for a child placed in an exclusive use home of a homefinding agency as described in (B) above when the following conditions are met:

(i) the placing agency has determined that the child has care needs greater than those of a normal foster child; and

(ii) the placing county has a specialized care system as specified in Section 11-401.3.

(See Section 11-401.4 for out of county placement requirements for specialized care.

(2) One rate shall be set for each program for which a rate request is received from a given homefinding agency.

(A) Each homefinding agency shall identify and describe each of the programs it offers.

(B) The Department shall have the authority to verify the legitimacy and accuracy of the descriptions of each program offered.

(C) Where a homefinding agency submits a rate request for more than one program and the Department determines that no significant difference exists between the programs, a separate rate or set of age-based rates shall not be set.

(b) Rate Ceilings

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(1) Welfare and Institutions Code Section 11463 provides that no county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with homefinding agencies, which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1982, to persons receiving Aid to Families with Dependent Children (AFDC).

(2) The rate base for application of any fiscal year's cost-of-living adjustment granted by the Legislature shall be the rate established by the Department for the preceding fiscal year.

(c) Allowable Costs

(1) In order to be claimed for AFDC-FC reimbursement, all costs shall be both allowable and reasonable as defined in federal statutes and regulations including 45 CFR Part 74 and 45 CFR 1356.

(A) Allowable costs shall include:

1. Payment to the foster parents for those items specified in Sections 11-401.11 and .12.
2. Reasonable social work activities provided by the homefinding agency as defined in Section 11-400.1.
3. The reasonable cost of activities of recruiting and training exclusive use home foster parents and administration of the provision of items or services described in 1. and 2. above.

(d) Rate Calculation

(1) The rate shall consist of the sum of the following amounts per month per child:

(A) The basic rate as specified in Section 11-400, plus an increment of \$175;

(B) The lesser of the actual allowable amount for social work services for the immediately preceding calendar year or \$250;

1. Reported allowable costs shall be adjusted by the Department based on the Commission of State Finance's "California Necessities Index" (CNI) for the most recent full calendar year.

(C) An amount equal to two-thirds of the sum of (A) and (B) above for recruitment, training, and administration.

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(D) EXAMPLE: The total rate for a 12-year-old child would be computed as follows:

<u>Basic rate</u>	<u>\$360</u>
<u>Increment for child</u>	<u>175</u>
<u>Social work services</u>	<u>250</u>
	<u>\$785</u>

Take two-thirds (.666) times the subtotal:

$$\underline{.666 \times 785 = 523}$$

HANDBOOK

The recruitment, training, and administration amount would be \$523; the total rate would be \$1,308 (\$785 + \$523).

(e) Rate Adjustments for Existing Homefinding Agency Rates

- (1) When, based on rate calculation provisions specified in Section 11-403(d), the newly calculated rate is lower than the existing rate, no increase in state participation in the existing rate shall occur until any cost-of-living increases provided in accordance with Welfare and Institutions Code Section 11463 eliminate the difference between the existing rate and the newly calculated rate.
- (2) When, based on rate calculation provisions specified in Section 11-403(d), the newly calculated rate is higher than the existing rate, any cost-of-living increases provided in accordance with Welfare and Institutions Code Section 11463 shall be applied until the difference between the existing rate and the newly calculated rate is eliminated.

(f) Rate Request Process

(1) Rate Request Submission

- (A) Each homefinding agency shall submit to the Department a complete rate request for each program being provided in order to receive a rate for that program.
- (B) A rate request shall be considered complete when all required forms, program statement and other supporting documentation have been completed and submitted to the Department.
 1. If all the required forms necessary to the actual setting of rates have been submitted, but additional documentation is needed, the rate request shall be considered complete if the homefinding agency submits the remaining documentation within 30 days after notification by the Department.
- (C) For Fiscal Year 1985/86, a complete rate request shall be due August 1, 1985.

1. A late rate request shall not be accepted from an existing homefinding agency after November 1, 1985.

2. Homefinding agencies which do not submit a rate request by November 1, 1985 shall not have a rate set for the new fiscal year and shall not receive AFDC-FC funds after February 1, 1986.

(D) For fiscal years subsequent to 1985/86, a complete rate request is due April 1.

1. A late rate request shall not be accepted from an existing homefinding agency after July 1.

2. Homefinding agencies which do not submit a rate request by July 1 shall not have a rate set for the new fiscal year and shall not receive AFDC-FC funds after September 1.

HANDBOOK

(E) Penalties for submission of late rate requests are specified in Section 11-403(f)(2)(B).

(F) Exceptions to these due dates shall be as specified in Section 11-403(g).

(2) Effective Date of Rates

(A) July 1 shall be the effective date for the rates when the rate request is submitted on time or late with good cause.

(B) Effective dates of rates for homefinding agencies which submit a late rate request without good cause shall be established as follows:

1. If the rate request is submitted from one day to one month late, the effective date will be August 1.

2. If the rate request is submitted from one month and one day to two months late, the effective date will be September 1.

3. If the rate request is submitted from two months and one day to three months late, the effective date will be October 1.

4. Where the new rate is lower than the old rate, the lower rate shall be set retroactively to July 1 and adjusted pursuant to Section 11-403 on overpayments.

(C) Exceptions to the effective dates of rates shall be as specified in Section 11-403(q).

(g) Deviations from the Rate Setting Process

(1) New Homefinding Agency Providers

(A) A new homefinding agency provider shall be one who:

1. Has not operated a homefinding agency or group home program for AFDC-FC funded children in the fiscal year preceding that for which the rate is being set; or
2. Has operated a homefinding agency in the fiscal year preceding that for which the rate is being set but did not accept AFDC-FC funded children during that fiscal year; and
3. Has not merely added a new program; increased the level of services provided; changed incorporation; reorganized; or changed name, location, ownership, or license.

(B) The initial rate for new homefinding agency providers shall consist of the sum of the following amounts per month per child:

1. The basic rate as specified in Section 11-400, plus an increment of \$175;
2. An amount equal to the average for actual costs incurred for social work services as determined by the Department for homefinding agencies which received AFDC-FC funds for the previous fiscal year.
3. An amount equal to two-thirds of the sum of 1. and 2. above for recruitment, training and administration.

(C) In order to establish a permanent rate, new homefinding agency providers shall submit to the Department a complete rate request based on actual costs for social work services for one of the following cost periods:

1. If the date of the new homefinding agency provider's first AFDC-FC eligible placement occurs between January 1 and June 30, the cost period shall be from the date of the first placement to December 31 of the same year.

(i) The rate request shall be due the following March 1 and the permanent rate shall be effective the following July 1.

2. If the date of the new homefinding agency provider's first AFDC-FC eligible placement occurs between July and December, the cost period shall be from the date of the first placement to December 31 of the following year.

(i) The rate request shall be due March 1 of the second calendar year after the initial placement and the permanent rate shall be effective July 1 of the second calendar year.

(ii) Beginning Fiscal Year 1986/87, the provider shall be entitled to any cost-of-living increase provided in accordance with Welfare and Institutions Code Section 11463 between the date of the first placement and the date the permanent rate is set.

3. Example:

<u>Date of Initial Placement</u>	<u>Cost Period Ends</u>	<u>Rate Request Due</u>	<u>Permanent Rate Effective</u>
<u>1/1 - 6/30/86</u>	<u>12/31/86</u>	<u>3/1/87</u>	<u>7/1/87</u>
<u>7/1 - 12/30/86</u>	<u>12/31/87</u>	<u>3/1/88</u>	<u>7/1/88</u>

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(2) New Homefinding Agency Programs

(A) A new homefinding agency program shall be one which:

1. Serves an entirely different population at an entirely different level of service than that currently served by the homefinding agency's existing program(s); and
2. Is either based in different exclusive use home(s) than the current program(s) operated by the homefinding agency, or the current program(s) operated by the homefinding agency is replaced by an entirely new program.

(B) Initial rates for new programs shall be set in accordance with Section 11-403(q)(1)(B) and (C).

(C) Homefinding agencies requesting a new program rate shall obtain and submit to the Department verification from the host county that:

1. The provisions of Section 11-403(q)(2)(A) are met; and
2. The need for the new program(s) is justified.

(3) Program Expansions

(A) All other changes which do not meet the requirements of 11-403(q)(1)(A) and 11-403(q)(2)(A) above shall be designated program expansions.

1. Costs associated with these changes shall be incorporated into the rate request for the following year's rate-setting process.

(h) Rate Review Process

(1) The rate review process for homefinding agencies shall be as specified in Section 11-402.6.

(i) State Audit Requirements

(1) Audit requirements for homefinding agencies shall be as specified in Section 11-402.7.

(j) Overpayments

- (1) Overpayment policies for homefinding agencies shall be as specified in Section 11-402.8.

(k) Accounting Principles

- (1) Accounting principles for homefinding agencies shall be as specified in Section 11-402.31.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Sections 11460, ~~11461~~, 11463, 11402.9, 45 CFR Part 74, 45 CFR 1356.

(j) Overpayments

- (1) Overpayment policies for homefinding agencies shall be as specified in Section 11-402.8.

(k) Accounting Principles

- (1) Accounting principles for homefinding agencies shall be as specified in Section 11-402.31.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 11209.

Reference: Welfare and Institutions Code Sections 11460, ~~11461~~, 11463, 11402.9, 45 CFR Part 74, 45 CFR 1356.

FILED
In the office of the Secretary of State
of the State of California

JUL 11 1985
At 4:10 o'clock P. M.
MARCH FONG EU, Secretary of State
By Margorie Hershberger
Deputy Secretary of State

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW


ORDER OF REPEAL
Government Code section 11349.6

File No.: 85-0701-3E

The amendments to sections 63-407 and 63-408 and the adoption of section 63-056 of the Manual of Policies and Procedures, which were adopted by the Department of Social Services on June 24, 1985, and filed with the Secretary of State on July 11, 1985, are hereby ordered repealed pursuant to Government Code section 11349.6.

The Department's finding of emergency fails to describe specific facts which demonstrate that the amendments to sections 63-407 and 63-408 and the adoption of section 63-056 are necessary for the immediate preservation of the public peace, health and safety or general welfare, as required by Government Code section 11346.1(b).

Dated: 7/11/85


ROSEANN C. STEVENSON
Chief Deputy Director
and General Counsel

for: LINDA STOCKDALE BREWER
Director

ENDORSED
APPROVED FOR FILING

JUL 11 1985

Office of Administrative Law

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD # 0585-30

FILED

In the office of the Secretary of State
of the State of California

JUL 11 1985

At 4:10 o'clock P.M.

MARCH FONG EU, Secretary of State

By Mayorie Hershberger
Deputy Secretary of State

RECEIVED FILING

JUL 1 12 30 AM '85

OFFICE OF
ADMINISTRATIVE LAW
APPROVED FOR FILING

JUL 11 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION
Jerry Demorest, Regulations Analyst

TELEPHONE (916) 323-0881

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22 SECTIONS AMENDED 63-407.21d and f through j, .223, .4 et seq., .52 and .521, .54
.822, .831b, .9 title; 63-408.1, .11 et seq. and .3 et seq.
SECTIONS ADOPTED
63-056, 63-407.92, 63-408.112, .12 et seq., .31j and .32
SECTIONS REPEALED
63-407.21e

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF ADOPTION OF REGULATION(S)

JUNE 24, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective on August 1, 1985 as required by statutes: (list) Government Code Section 11346.1(d)
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

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(OAL-4)

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(Attach additional sheets if necessary.)

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Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

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- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Adopt MPP Section 63-056 to read:

63-056 IMPLEMENTATION OF THE WORK REGISTRATION/JOB
SEARCH/VOLUNTARY QUIT PROVISIONS

63-056

CWDs shall implement the revised provisions of the work registration, job search, and voluntary quit regulations (Sections 63-407.21d and e, .223, .4 et. seq., .52, .521, .54, .822, .831b, .92; 63-408.1, .11 et. seq., .12 et. seq., .3, .31 and .32) as follows:

- 1 Effective August 1, 1985 these revised provisions shall apply to all new applicants.
- 2 These provisions shall be applied to participating households at the time of their recertification, or any other time they have office contact after July 31, 1985.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 7 CFR 272.1(g)(63)(i).

(2) Amend MPP Section 63-407, et. seq. to read: .

63-407 WORK REGISTRATION REQUIREMENTS

63-407

•1 Persons Required to Register (Continued)

•2 Exemptions from Work Registration

- 21 The following persons are exempt from the food stamp work registration requirement and shall not complete Form DE 8435 FS: (Continued)

d. A parent or other household member who is responsible for the care of a dependent child under 12 6 or an incapacitated person. If the child has his/her 12th 6th birthday within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirements as part of the next scheduled recertification process, unless the individual qualifies for another exemption;

e. A parent or other caretaker of a child under 18 in a household where another able-bodied parent is registered for work, or is exempt as a result of employment. If the child has his/her 18th birthday within a certification period, the parent or caretaker must fulfill the work registration requirement as part of the next scheduled recertification process, unless the parent or caretaker qualifies for another exemption;

f. A person who is in receipt of unemployment compensation or who has applied for, but has not yet begun to receive unemployment compensation, if that person was required to register for work with EDD as a part of the unemployment compensation application process. Such persons shall be considered registered for work for six months (beginning the date of food stamp application) provided the application for unemployment compensation was made within two months prior to the date of application. If the exemption claimed is questionable, the CWD shall be responsible for verifying the exemption with the appropriate EDD office as required by Section 63-300.53;

gf.

hg.

ih.

ji.

.22 Loss of Work Registration Exemptions (Continued)

- .223 Those persons exempt because they are registered for work under one of the programs specified in Section 63-407.21c, e, and f; i and are deemed ineligible to participate in that program due to a change in household circumstances other than failing to comply with the work registration requirements of that program shall register for work under the Food Stamp Program within 10 calendar days from the date they lose their eligibility for that program. For treatment of persons who fail to comply with the work registration requirements of a program specified in Section 63-407.21c, e, and f; i; see Sections 63-407.47 and 63-407.52.

.3 CWD Requirements (Continued)

.4 Work Registrants Requirements

Work registrants shall:

All persons required to register for work under the Food Stamp Program (via Form DE 8435FS) or under an alternate program specified in Section 63-407.21c, e, or i, shall meet the following additional requirements when requested by the agency they are registered with:

- .41 Report for an a job assessment interview upon the reasonable request of the appropriate EOB.
- .42 Respond to a request from the EOB office for supplemental information regarding employment status or availability for work.
- .43 Report to an employer to whom referred by the EOB office, if the potential employment meets the suitability requirements described in Section 63-407.7.

- .44 Accept a bona fide offer of suitable employment, as defined in Section 63-407.7, to which referred by the EBB office.
- .45 Continue suitable employment to which referred by the EBB office. Household members shall continue such employment until it is no longer considered suitable in accordance with Section 63-407.7, until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirement as provided in Section 63-407.2.
- .46 Comply with the job search requirements described in Section 63-407.8.
- .47 Comply with the requirements of the work registration process for non-WIN Public Assistance, County General Assistance or Refugee Resettlement Program in which the registrant is participating. Registrant's activities shall be monitored so that appropriate sanctions as required by Section 63-407.5 of these regulations will be applied. For Food Stamp Program purposes, registrants shall not be required to comply with work registration requirements which exceed those required above in Sections 63-407.41 through 46.

.5 Failure to Comply (Continued)

- .52 If the CWD is informed by EBB that a household member work registrant, (including individuals required to register for work under non-WIN Public Assistance, General Assistance or Refugee Resettlement Programs) has refused or failed without good cause to comply with the any requirements of Section 63-407.4, the entire household shall be ineligible to participate for two months. Such ineligibility shall continue in the Food Stamp Program for two months or until one of the following occurs: either

- a. If the member becomes exempt from the work registration requirement;
- b. If or the member complies with the requirements of Section 63-407.6.

- .521 Household members who are required to register for work under WIN or unemployment compensation and fail to comply with the work registration requirements of those

programs shall not be denied food stamp benefits for this failure. These members lose their Food Stamp work registration exemption under Section 63-407.21e of 21f and must register for work if required to do so in Section 63-407.1.

If the CWD is informed that a household member who is registered for work under any of the alternate programs specified in Sections 63-407.21c, e, or i, has refused or failed without good cause to comply with a work registration requirement, the CWD shall determine if the requirement is comparable to the food stamp requirements specified in Section 63-407.4.

(a) If the CWD determines that the work registration requirement is comparable, the entire household shall be disqualified in accordance with .52 above. The household shall be notified of the disqualification as specified in Section 63-407.53.

(1) A household shall not be disqualified from participation if the noncomplying member is no longer required to be work registered in accordance with Section 63-407.2.

(b) If the CWD determines that the work registration requirement is not comparable, the household shall not be disqualified. However, the noncomplying member shall lose his/her food stamp work registration exemption under Section 63-407.21c, e, or i and must register for work, if required to do so under Section 63-407.1.

.54 Determining Good Cause

EDD shall be responsible for determining good cause in those instances where the work registrant has failed to comply with the requirements of Section 63-407.4.

In determining if good cause existed for failure to comply with any work registration/job search requirements, EDD shall consider the facts and circumstances, including information submitted by the household member involved and/or the employer. Good cause shall include circumstances beyond the member's

control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, lack of adequate child care for children between the ages of six and twelve, [see Section 63-408.31(j)], the unavailability of transportation, or problems caused by inability of the work registrant to speak, read, or write English.

.8 Job Search (Continued)

.82 Requirements (Continued)

.822 Work registrants classified in Category II will not be assigned any specific job search activity. Job attached persons who have not returned to their jobs or otherwise become exempt from the work registration requirement may be called in for reassessment at the end of sixty days. Other persons may be called in by EDD during the ~~six~~ 12-month registration period. During subsequent interviews, job files will be reviewed for potential referrals, and the job search categorization of such individuals will be reassessed.

.83 Follow-up Activities (Continued)

.831 Scheduling Follow-up Interviews (Continued)

- b. Category II registrants shall be informed that they shall be contacted either within the ~~six~~ 12-month registration period or in 60 days if they are job attached.

.9 Optional Food Stamp Workfare Employment Programs (Continued)

.91 Counties shall be permitted to operate the Food Stamp Workfare Program in accordance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.22.

.92 Counties shall obtain state approval to operate the Optional Food Stamp Applicant Job Search Program in compliance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.7.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 USC Section 2029 and 7 CFR Sections 273.22 and 273.7.

(3) Amend MPP Sections 63-408.1, et seq., .3 and .31 to read:

63-408 VOLUNTARY QUIT

63-408

.1 No applicant or participating household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible for participation in the program as specified below.

.11 Application Processing (Continued)

.111 When a household files an application or reapplication, the county welfare department (CWD) shall determine if any currently unemployed household member who is required to register for full-time work has quit his/her most recent job without good cause within the last 60 days. The CWD shall explain to the applicant the consequences of the primary wage earner quitting his/her job without good cause. For the purpose of this subsection, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

.112 When the CWD learns that a household has lost a source of earned income after the date of application but before the household is certified, the CWD shall determine whether a voluntary quit occurred.

.1123 (Continued)

.1134 Upon a determination that the primary wage earner voluntarily quit employment, the CWD shall determine if the voluntary quit was with good cause as defined in Section 63-407.38.3. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of two months beginning with the month of the quit 90 days starting from the date of application. The household shall be

advised of the reason for the denial and of its rights to reapply and/or request a state hearing.

.1145 If an application for participation in the program is filed in the ~~second~~ third month of disqualification, the CWD shall use the same application for:

(a) the denial of benefits ~~in~~ for the ~~remaining~~ der month of the disqualification period and; use ~~that~~ same application for

(b) certification of benefits after the final day of disqualification for any subsequent ~~month(s)~~ if all other eligibility criteria are met. (See Section 63-503.11.)

.12 Participating Households

.121 When the CWD learns that a participating household has lost a source of earned income, the CWD shall determine whether any household member voluntarily quit his or her job.

.122 Upon a determination by the CWD that the primary wage earner voluntarily quit employment, the CWD shall determine if the voluntary quit was with good cause as defined in Section 63-408.3.

(a) If the voluntary quit was not for good cause, the household shall be disqualified for a period of three (3) calendar months. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6.

(b) If a household leaves the program before the sanction can be imposed, the sanction shall be applied when the household returns to the program.

.2 Exemptions from voluntary quit provisions. (Continued)

.3 Good cause. The CWD shall be responsible for determining good cause in those instances where an applicant a primary wage earner has voluntarily quit a job. The CWD shall

consider the facts and circumstances, including information submitted by the household member involved and the employer.

.31 Good cause for leaving employment shall include:

*31 (a)

*32 (b)

*33 (c)

*34 (d)

*35 (e)

*36 (f)

*37 (g)

*38 (h)

*39 (i)

(j) Situations where there is a lack of adequate child care arrangements available for the registrants children between six and twelve years of age. For purposes of this section, adequate child care arrangements means those which meet the standards in Title 22, California Administrative Code (CAC), Division 6, Chapter 2 (commencing with Section 81000) and Chapter 8.5 (commencing with Section 88001).

.32 The following shall not constitute good cause for leaving employment:

(a) When federal, state, or local government employees who have been dismissed from their jobs because of participation in a strike against the government entity involved.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.7.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 0185-08

850634

RECEIVED

JUN 13 2 38 PM '85

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING

JUL 15 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JUL 15 1985

At 1:26 o'clock P.M.

MARCH FONG EU, Secretary of State

By

Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Jerry Demorest, Regulations Analyst

TELEPHONE

(916) 445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 22 MPP Section 46-325.11 and .21.

SECTIONS ADOPTED

MPP Section 50-060.1, .2, and .3.

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☐ Regular

☐ Emergency
(Attach Finding of Emergency)

☒ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

March 29, 1985

b. DATE OF ADOPTION OF REGULATION(S)

March 15, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

N/A

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☒ Effective on April 1, 1985 as required by statutes: (list) Government Code Section 11346.1(d)

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

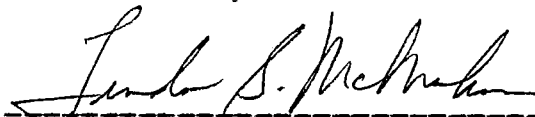
- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on March 22, 1985, and which became effective on April 1, 1985.

Sections 46-325.11 and .21; 50-060.1, .2 and .3.

No Amendments or repealers resulted from the public hearing held on May 15, 1985.



LINDA S. McMAHON
Director

6/11/85

Date

(1) Amend MPP Handbook Section 46-325.11 to read:

46-325 BENEFIT LEVELS

46-325

.1 (Continued)

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.11 Effective January 1, 1984 SSI/SSP "monthly benefit levels" established in accordance with Welfare and Institutions Code Sections 12200, 12201, 12201.5, 12205, 13920, 13921, and 13922, shall be as follows depending upon the living arrangement of the recipient(s).
(Continued)

.111 Eligible Individual	Benefit Level
Aged or Disabled	\$477.00
Blind	535.00
A Disabled Minor Under 18 Living with a Parent	378.00

(2) Amend MPP Section 46-325.21 to read:

46-325 BENEFIT LEVELS (Continued)

46-325

.2 (Continued)

.21 Certification of recipients to unlicensed homes or other facilities which provide personal care and supervision shall be permitted, under any of the following circumstances:

.211 Except as provided in Section .212 below, it is the home of a relative or legally appointed guardian or conservator. A relative for purposes of this section shall mean a parent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first-cousin or any such person denoted by the prefix "grand" or "great".

.212 The Nonmedical Out-of-Home Care benefit level is not appropriate for (a) a disabled minor recipient under 18 living with a parent; (b) an individual living in his own home and receiving care from his spouse, or; (c) a blind child (under 18 or 18 to 21 and attending school or training full-time) living in the home of a parent or guardian.

.213 It is an "exclusive use home" approved by a licensed home finding agency as defined in Health and Safety Code Section 1502(a)(4).

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(a) Health and Safety Code Section 1502(a)(4) defines "Homefinding agency" as "any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoptions".

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 12200; Major v. McMahon, No. 808898, Final Judgment and Order, January 28, 1985, Superior Court of California, County of San Francisco.

(3) Adopt MPP Section 50-060, et seq. to read:

50-060 MAJOR VS. MCMAHON

50-060

•1 Background

On January 28, 1985, the San Francisco Superior Court approved a settlement agreement and adopted it as the final judgment of the court in the case of Major v. McMahon. The judgment invalidated MPP Section 46-325 to the extent this regulation was interpreted/applied to deny otherwise eligible disabled minors from receiving the SSI-SSP "nonmedical out-of-home care" benefit level because they were residing with nonparent relatives.

In compliance with the Major v. McMahon judgment, MPP Section 46-325 was amended (April 1, 1985) to enable otherwise eligible disabled minors residing with a nonparent relative to receive the SSI-SSP "nonmedical out-of-home care" payment rate. Additionally, the court ordered that retroactive benefits be paid to disabled minors in this class, who for anytime after December 31, 1983 were otherwise eligible but were denied the SSI-SSP "nonmedical out-of-home care" payment rate solely because they were residing with a nonparent relative.

The following provisions specify rules and procedures applicable to the issuance of payments in conformance with this court order.

•2 Informing Potentially Eligible Persons of the Availability of Major v. McMahon Payments

•21 In order to notify the class of potentially eligible persons, the Department shall:

•211 Identify from the State Data Exchange, all individuals who meet the description of the Major v. McMahon class and who are potentially eligible for Major v. McMahon benefits.

•212 By April 1, 1985, send a written notice to all potentially eligible individuals, which specifies eligibility factors and application procedures and deadlines for Major v. McMahon benefits.

•3 Application for Major v. McMahon Payments and Claims Processing

payments to all claimants who were certified for the SSI-SSP "nonmedical out-of-home care living arrangement during this period.

- (a) The amount of retroactive benefits shall be, for each month of eligibility during the retroactive period, the difference between the SSI-SSP "nonmedical out-of-home care" rate and the "disabled minor" rate in effect for that month.
 - (1) For calendar year 1984, the difference is \$161 per month.
 - (2) For calendar year 1985, the difference is \$170 per month.

.323 The SSA will make prospective payments to Major v. McMahon eligibles upon receipt of CWD certifications of applicable living arrangements.

.33 CWD Responsibility

.331 Within 13 working days of receipt of a request for certification (SSP-22) marked "Major v. McMahon" from the SSA, the CWD shall:

- (a) Determine the applicant's eligibility for the "nonmedical out-of-home care" level of benefits during any month(s) from January 1, 1984.
 - (1) The provisions of MPP Section 46-325.351 shall apply to requests for Major v. McMahon certifications in the same manner as for certification requests received on behalf of other SSI-SSP applicants/recipients.
 - (2) If a disabled minor child is found to be currently eligible for the "nonmedical out-of-home care" rate, he/she shall be presumed to be eligible for as much of the retroactive period as he/she was residing with the same relative.
 - (3) If the minor child is currently ineligible for the "nonmedical

•31 Claimant Responsibility

•311 Potentially eligible individuals shall apply for retroactive payments at the local Social Security Administration (SSA) office, within the 60-day period commencing April 1, 1985 and ending May 30, 1985.

(a) Extension of the mandatory 60-day application period.

(1) Applications for Major v. McMahon retroactive benefits received after May 30, 1985 shall be denied except where the applicant can show good cause for his/her failure to apply during the mandatory 60-day application period. "Good cause" shall be determined by the SSA.

(2) Provided the applicant can show good cause for not applying within the period specified in .311, his/her application for retroactive benefits will be accepted if filed with the SSA within 60 days after May 30, 1985 or before July 30, 1985.

•32 Social Security Administration (SSA)

•321 Upon receipt of the claimant's application for Major v. McMahon benefits, the local SSA office will request from the county welfare department (CWD) certification that the disabled minor involved was eligible for the "nonmedical out-of-home care" payment rate within this Major v. McMahon retroactive period.

(a) In response to each Major v. McMahon application, SSA will send requests for certification (Form SSP-22) to the county welfare departments, which for control purposes, have been separately identified by the words MAJOR v. McMAHON in bold print at the top.

•322 As soon as administratively possible after receipt of the CWD's certification of applicable living arrangement [see .331(b)] the SSA will compute and issue the amount of Major v. McMahon retroactive

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out-of-home care" rate, he/she shall be presumed to be ineligible for as much of the retroactive period as he/she was residing with the same relative.

- (4) Presumptions in (2) and (3) above may be rebutted by the CWD or by the recipient. If the minor child was living with another nonparent relative during the retroactive period he/she shall have the opportunity to present evidence regarding eligibility for the "nonmedical out-of-home care" rate in that home.

- (b) Return the completed request for certification (SSP-22) to the SSA.

- (1) CWD's shall maintain a copy of all completed Major v. McMahon certification requests (SSP-22) in an easily identifiable and retrievable manner for a period of six months, beginning April 1, 1985.

.332 Within 30 calendar days of the receipt of a request for certification (SSP-22) marked Major v. McMahon from the SSA, the CWD shall send a written notice of action (Temp. 1624) to the Major v. McMahon applicant which:

- (a) states the CWD's determination of the applicant's eligibility for the "nonmedical out-of-home care" level of SSI-SSP benefits; and,
- (b) specifies the months the applicant was eligible for "nonmedical out-of-home care" benefits since January 1, 1984; and,
- (c) informs the applicant of his/her right to request a state hearing regarding the CWD's certification or noncertification of the applicant's "nonmedical out-of-home care" living arrangement during any month since January 1, 1984. The state hearing of this issue shall be governed by MPP Division 22 regulations.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 12200; Major v. McMahon, No. 808898, Final Judgment and Order, January 28, 1985, Superior Court of California, County of San Francisco.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 0784-31

8507024

REC'D
JUL 2 11 30 AM '85
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
AUG 6 1985

Office of Administrative Law
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1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY:

Linda S. McNeer

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

AUG 6 - 1985
At 4:09 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Maxine Lerschberger*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION
Angie Teixeira, Regulations Analyst

TELEPHONE
323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22 SECTIONS AMENDED
(See attached sheet)
SECTIONS ADOPTED
63-047; 63-102(a)(2); 63-300.519, .532
SECTIONS REPEALED
63-102(p), ss; 63-300.532(b); 63-503.16

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

January 11, 1985

b. DATE OF ADOPTION OF REGULATION(S)

June 19, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

May 10, 1985 to 5 P.M.
May 24, 1985 inclusive

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☒ Effective on September 1, 1985 (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3):
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

SECTIONS AMENDED:

63-102(f)(4); 63-103.211; 63-201.3; 63-301.541(b), .543(b); 63-501.112, .3(b);
63-503.326; 63-504.324(a)(1), .361, .39, .392(c); 63-505.1; 63-602.382; 63-703.5;
63-801.22

Adopt Section 63-047 to read:

63-047 IMPLEMENTATION OF REGULATIONS FOR THE GENERAL 63-047
ADMINISTRATIVE CLEAN-UP

CWDs shall implement the provisions of these regulations effective on the first of the month thirty (30) days after filing with the Secretary of State. Sections affected by these revisions are as follows: 63-102(a)(2); 63-103.21(i); 63-201.3; 63-300.519, .532(b); 63-301.541(b), .543(b); 63-501.112, .3(b); 63-503.16, .326; 63-504.324(a)(1), .361(d), .39, .392; 63-505.1; 63-602.382; 63-703.5; and 63-801.225.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 10553, 18901, and 18904 and Government Code Section 11346.2.

Adopt Section 63-102(a)(2) to read:

63-102 DEFINITIONS (Continued)

63-102

a. (Continued)

(2) "Annual Review Period" means the 12-month period from October 1 of each calendar year through September 30 of the following calendar year.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 271.2.

~~Repeal Section 63-102(p) as follows:~~

~~63-102 DEFINITIONS (Continued)~~

~~63-102~~

~~p. {Section 63-102p has been repealed}~~

~~Authority: Welfare and Institutions Code Sections 10554 and 18904.~~

~~Reference: Welfare and Institutions Code Sections 18553 and 10554.~~

Repeal Section 63-102(ss) as follows:

63-102 DEFINITIONS (Continued)

63-102

ss. "Migrant Households" are households which contain members who travel to various locations in search of agricultural employment.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 10553 and 10554.

Amend Section 63-102(f)(4) to read:

63-102 DEFINITIONS (Continued)

63-102

f. (Continued)

(4) "Form Identification"

DFA and CA forms mean the state's most currently printed Division of Financial Administration and Children's Assistance Forms.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 10553 and 10554.

Amend Section 63-103.21i to read:

63-103 ADMINISTRATIVE AUTHORITIES (Continued)

.2 State Agency Delegations to County Agencies (Continued)

.21 (Continued)

i. Maintenance of procedures and controls to:

- (1) Implement Food Stamp Program changes as required by SDSS.
- (2) Accumulate statistical data for the following monthly reports:
 - (a) DFA 296 Food Stamp Program Monthly Statistical Report
 - ~~(b)~~ BFA 433 Monthly Report on Food Stamp Outreach Program
 - ~~(c)~~(d) FNS DFA 256 Monthly Report on Participation and Coupon Issuance
- (3) Coordinate between all CWD administered programs to ensure that food stamp eligibility and benefits accurately reflect participation and changes which occur in other programs.
- (4) Coordinate records and forms where there are separate PA records on the same food stamp household, as the Food Stamp Program operates on a consolidated household basis and adequate cross referencing is necessary.
- (5) Ensure that recertifications are completed and recorded at the required time for all cases including those with companion PA cases.
- (6) Facilitate replacement of stolen ATPs, or coupons or ATPs lost in the mail, or coupons or ATPs destroyed in a disaster (as specified in Section 63-102yy).

- (7) Expedite services for destitute households.
- (8) Facilitate continuous participation of eligible households moving to another county or state (particularly where a PA case transfer is involved).

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 18902, 18904.2; 7 CFR 272.4 and FNS Notice 84-62.

Amend Section 63-201.3 to read:

63-201 GENERAL TERMS AND CONDITIONS (Continued)

63-201

.3 Disclosure

Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted to persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, the Food Distribution Programs, or with other Federal or federally aided, means tested assistance programs such as Title IV-A (AFDC), XIX (Medicaid), or XVI (SSI), or with general assistance programs that are subject to the joint processing requirements specified in 63-301.67; however, this section shall not prohibit the furnishing of such information to county supervisors of schools or supervisors of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind services directly to the individual on the basis of need.

- .31 If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials contained in its case file, the material and information contained in the case file shall be made available for inspection during normal business hours. However, the county may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 18902, 18909, and 7 CFR 273.1(c)(1).

Adopt Section 63-300.519 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.51 Mandatory Verification (Continued)

.519 Questionable Eligibility Requirements

Households applying after 95 days from the end of the annual review period in which the household refused to cooperate with a QC reviewer, shall provide verification of all eligibility requirements, including items that would normally only be verified if questionable, as specified in Section 63-300.53.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.2(d).

Amend Section 63-300.532 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.53 Verification of Questionable Information (Continued)

.532 Citizenship (Continued)

- a. When a household's statement that one or more of its members are U.S. citizens is questionable, the household shall be asked to provide acceptable verification. Specific requirements for verification of citizenship are addressed in Section 63-403.31.
- b. The member whose citizenship is in question shall be allowed to participate for two months pending verification of citizenship if the household is otherwise eligible and efforts are being made to obtain the necessary verification. If verification has not been obtained within two months, the member whose citizenship is in question shall be ineligible and that member's income and resources shall not be considered available to any remaining household members (see 63-503.5).

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.2(f)(ii)(F).

Amend Section 63-301.541(b) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

•5 Expedited Service (Continued)

•54 Special Procedures for Expediting Service (Continued)

•541 The CWD shall use the following procedures when expediting certification and issuance: (Continued)

(b) All reasonable efforts shall be made to verify within the expedited processing standards, the household's residency, income statement (including a statement that the household has no income), liquid resources, and all other factors required by Section 63-300.51 through collateral contacts or readily available documentary evidence. However, benefits shall not be delayed beyond the delivery standards prescribed in 63-301.53 solely because these eligibility factors have not been verified. Except as provided for in Sections 63-403.31 and .32, verification of these eligibility factors shall be postponed if unobtainable within the expedited processing standards.

(1) If a household eligible for expedited services reapplies after 95 days from the end of the annual review period in which the household had refused to cooperate with a QC reviewer, the CWD shall issue one month's benefits in accordance with the processing standards and procedures in Sections 63-301.53. Before a second month's benefits are issued, the household shall provide verification of all household circumstances that could affect eligibility as specified in Section 63-300.519.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and FNS Administrative Notice No. 84-77 dated June 13, 1984 from Rex H. Bailey.

Amend Section 63-301.543(b) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.54 Special Procedures for Expediting Service (Continued)

.543 (Continued)

(b) When households which apply for benefits after the 15th of the month provide the postponed verification, the CWD shall issue the second month's benefits within five working days from receipt of the verification or the first of the second month, whichever is later, except migrant farmworker households needing out-of-state verification as outlined in Section 63-301.543(c).

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.2(i).

Amend Section 63-501.112 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.1 Definition of Resources (Continued)

.11 (Continued)

.112 Funds held in IRAs and funds held in accessible Keogh plans are those which do not involve the household member in a contractual relationship with individuals who are not are established solely between household members are also considered liquid resources.

.113 In counting resources of households with IRAs or accessible Keogh plans, the CWD shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.8(c) and (e).

Amend Section 63-501.3(b) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

•3 Exclusions from Resources (Continued)

- b. Households goods, personal effects, including one burial plot per household member, and the cash value of life insurance policies, the cash value of pension plans or funds, shall be excluded, except for IRAs and Keogh plans which involve a contractual relationship with individuals who are not household members.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.8(c) and (e).

Repeal Section 63-503.16 as follows:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND
BENEFIT LEVELS (Continued)

63-503

.1 Month of Application (Continued)

*16 Eligibility and the level of benefits for recertifications shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. If an application for recertification is received after the household's certification period has expired, then that application shall be considered an initial application and benefits for the month prorated in accordance with Section 63-503.12.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 10554, 18901, and 18904.

Amend Section 63-503.326 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND
BENEFIT LEVELS (Continued)

63-503

.3 Calculating Net Income and Benefit Levels (Continued)

.32 Eligibility and Benefits (Continued)

- .326 For an eligible household with three or more members which is entitled to benefits for the initial month but not the next following month, the CWD shall certify the household for the initial month only and deny the case for the following month on the grounds that its net income exceeds the level at which benefits are issued in accordance with Section 63-504.1 and terminate the case for the following month if the household is prospectively ineligible. The household shall be notified in accordance with Section 63-504.261.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(a)(3) and (e)(1).

Amend Section 63-504.324(a)(1) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
 ELIGIBILITY (Continued)

63-504

•3 Monthly Reporting (Continued)

•32 Complete CA 7 (Continued)

•324 All questions and items pertaining to food stamp eligibility are fully answered and provide the CWD with the information to correctly determine eligibility and benefit level.

(a) To be considered fully answered, information on the CA 7 together with attached documentation must provide sufficient information to allow for the determination of eligibility and/or benefit level except for the following:

(1) If earnings are reported, the name of the person(s) who received the income, and the amount of pay and date(s) received, and the days and hours worked must be on the CA 7. In addition, documentation must be attached to the CA 7.

(2) If elements pertaining to one program's requirements are missing from the CA 7, the CA 7 shall be considered incomplete for that program only.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901.

Amend Section 63-504.361 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.36 Termination (Continued)

.361 The CWD shall terminate a monthly reporting household's participation in the Food Stamp Program if the household:

- (a) is no longer eligible for food stamps, unless suspended in accordance with Sections 63-504.371 or .372. If the CWD determines that a change in household circumstances makes the household prospectively ineligible for one or more months, the household shall be terminated, except as provided in Sections 63-504.371 or .372. The household shall be notified in accordance with Section 63-504.261;
- (b) fails to submit a complete CA 7 by the extended filing date. The household shall be notified in accordance with Section 63-504.27;
- (c) fails to comply with a nonfinancial eligibility requirement, such as registering for employment. The household shall be notified in accordance with Section 63-504.261.
- (d) requests such termination in writing. The household shall be notified in accordance with Section 63-504.26.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902.

Amend Section 63-504.39 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
 ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.39 Mass Changes (Continued)

Certain changes are initiated by the state or federal government which may affect the entire caseload or significant portions of the caseload. These changes include adjustments to the income eligibility standards, the shelter/dependent care deductions; the thrifty food plan and standard deduction; ~~seasonal~~ annual adjustments to the standard utility allowance; and other changes in the eligibility criteria based on legislative or regulatory actions.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.12(e).

Adopt Section 63-504.392(c) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.39 Mass Changes (Continued)

.392 Mass Changes in Public Assistance

- (a) When the CWD makes an overall adjustment to public assistance payments, corresponding adjustments in household's food stamp benefits shall be handled as a mass change. When the CWD has at least 30 days' advance knowledge of the amount of the public assistance adjustment, the CWD shall recompute food stamp benefits to be effective in the same month as the public assistance change. If the CWD does not have sufficient notice, the food stamp change shall be effective not later than the month following the month in which the public assistance change was made.
- (b) A Notice of Adverse Action is not required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the public assistance grant. However, the CWD shall send individual notices to households to inform them of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that food stamp eligibility or benefits were improperly computed.
- (c) The CWD shall handle mass changes to General Assistance (GA) payments in the same manner as public assistance adjustments.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and
18902, and 7 CFR 273.12(e)(iii).

Amend Section 63-505.1 to read:

63-505 HOUSEHOLD RESPONSIBILITIES

63-505

.1 Household Cooperation

To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. In counties where photo ID cards are mandated it is a condition of participation that a household member or its authorized representative obtain a photo identification card unless exempt under 63-504.97. If a designated authorized representative does not comply, the household may designate a household member or another authorized representative to be photographed. If the household refuses to cooperate with the CWD in completing this process, the application shall be denied at the time of refusal. For a determination that household refusal has occurred, the household must have been able to cooperate, and clearly demonstrated that it chose not to take such actions as are required to complete the application process. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied. Refusal to disclose a Social Security number is an exception to the denial of the entire household. When an individual is required to give his/her Social Security number and has refused to comply, the eligibility of the other household members will not be affected (see Section 63-404). The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of a quality control review. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates, or the household reapplies at least 95 days after the end of the annual review period in which the refusal to cooperate with a QC reviewer occurred.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.2(d)(2).

Amend Section 63-602.382 to read:

63-602 ISSUANCE Systems (Continued)

63-602

•3 ATP Requirements (Continued)

•38 Emergency Authorized Representative (Continued)

- 382 Prior to coupon issuance, the cashier shall ask the person requesting food stamps for identification as the certified participant, authorized representative or emergency representative. This person shall present to the cashier both the food stamp ID card and the ATP (in counties using ATP systems). The cashier shall examine the ATP for authenticity, alteration, and date of expiration. If the ATP is valid, the person requesting food stamps shall sign the ATP in the presence of the cashier. The cashier shall compare the signature on the ATP with the signature on the ID card. In cases where an emergency representative obtains the coupons, the signature and identification check shall be governed by county policy as provided in paragraph ~~•371~~ •381 of this section. If the person requesting coupons has already signed the ATP, the person shall be required to sign a separate piece of paper for signature comparison. If the signatures agree, coupons shall be issued in accordance with Section 63-602.234.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 10554 and 18904.

Amend Section 63-703.5 to read:

63-703 HOW TO ORDER BULK SUPPLIES OF FOOD STAMPS (Continued) 63-703

.5 Additional Coupon Book Data

Coupons are normally ordered in full size cartons. However, small counties with low usage rates may order in half-size cartons. The following two tables give additional facts on full and half-size cartons.

Books
Half-size Cartons

	\$ 2	\$ 7	\$10	\$40	\$50	\$65
Carton Weight (estimated lbs.)	12	14	17	11	12	10
Carton value	\$2,000	\$7,000	\$10,000	\$16,000	\$20,000	\$19,500
Carton Dimensions						
(inches) L	7	9	12-5/8	13-1/2	14-1/4	12
(inches) W	6-5/8	6-5/8	11-3/8	6-5/8	6-5/8	6-5/8
(inches) H	11-1/2	11-1/2	5-3/8	6	6	6
Volume						
Boxes per Carton	4	4	4	2	2	2
Boxes <u>oks</u> per Box	250	250	250	200	200	150
Books per Carton	1,000	1,000	1,000	400	400	300

Books
Full-size Cartons

	\$ 2	\$ 7	\$10	\$40	\$50	\$65
Carton Weight (estimated lbs.)	26	28	34	22	24	21
Carton value	\$4,000	\$14,000	\$20,000	\$32,000	\$40,000	\$39,000
Carton Dimensions						
(inches) L	13	13	12-1/2	13-1/2	14-1/4	13
(inches) W	7	9	11	13	13	12
(inches) H	11-1/2	11-1/2	10-3/8	6	6	6
Volume						
Boxes per Carton	8	8	8	4	4	4
Boxesoks per Box	250	250	250	200	200	150
Books per Carton	2,000	2,000	2,000	800	800	600

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 10553 and 18904.

Amend Section 63-801.22 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.2 Types of Claims (Continued)

.22 Administrative Error Claims

A claim shall be handled as an administrative error claim if the overissuance was caused by the CWD. Instances of administrative error which may result in a claim include, but are not limited to the following:

- .221 The Agency failed to take prompt action on a change reported by the household.
- .222 The Agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
- .223 The Agency incorrectly issued duplicate ATPs which were subsequently transacted by the household.
- .224 The Agency continued to provide a household with food stamp allotments after its certification period had expired without benefit of a reapplication determination.
- .225 The Agency failed to provide a household a reduced allotment because its PA grant increased.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.18(b)(2).

(FM) Amend Section 63-801.738(c) to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.7 Method of Collecting Payments (Continued)

.73 Reduction in Food Stamp Allotments (Continued)

.738 (Continued)

(c) Intentional Program Violation Claims

For intentional Program violation claims, the amount of food stamps shall be 20 percent of the household's monthly allotment or \$10 per month, whichever is the greater amount.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.18(g)(3)(iii).

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(OAL-4)

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(Attach additional sheets if necessary.)

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- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

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- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Repeal Sections 69-208.12, .23, and .616, and renumber Sections 69-208.13 and .14; amend Section 69-208.626 to read:

69-208 REGISTRATION, EMPLOYMENT, AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS

.1 General Requirements (Continued)

112 RBP applicants/recipients shall accept necessary supportive services, such as training-related expenses (TRE), work related expenses (WRE) or child care if these services are available when provision of these services will permit acceptance of an appropriate training or employment opportunity.

.132 (Continued)

.143 (Continued)

69-208 REGISTRATION, EMPLOYMENT, AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS (Continued)

.2 Employment and Employment-Directed Education/Training
Requirements (Continued)

23 Nonexempt RBP applicants/recipients shall accept necessary supportive services offered by the SBSS-funded employment-directed program.

69-208 REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS (Continued)

.6 Cause Determinations (Continued)

.61 (Continued)

616 Refused RBP supportive services necessary to permit acceptance of an appropriate work or training offer.

69-208 REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS (Continued)

•6 Cause Determinations (Continued)

•62 (Continued)

- 626 The individual must be informed of the effect the refusal to accept or continue employment or employment-directed education/training, failure to accept supportive services where available and necessary, or failure to comply with the EDD registration requirements, without good cause, will have on his/her receipt of RDP or RCA.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Division 9, Part 3, Chapter 5.2, and 8 USC Section 1522(3)(7).

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #1284-68

8507161

RECEIVED

JUL 16 10 30 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

AUG 13 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

AUG 13 1985

At 4:20 o'clock P.M.

MARCH FONG EU, Secretary of State

By Mayjore Heubberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Merry Benard

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED
Title: 22 44-111.3k, 44-111.438
SECTIONS ADOPTED
44-113.13
SECTIONS REPEALED
44-111.437

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

April 17, 1985

b. DATE OF ADOPTION OF REGULATION(S)

July 10, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

May 17, 1985-May 31, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☒ Effective on October 1, 1985 (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Amend MPP Section 44-111.3k to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

•3 Exemption of Payments from Public Sources (Continued)

k. Exempt the following payments or funds received from the California Franchise Tax Board.

(1) Renters Credits

(2) Senior Citizens Homeowners and Renters Property Tax Assistance Program (applies to persons who are disabled, blind or 62 years of age or older)

(3) Senior Citizens Property Tax Postponement Program (applies to persons 62 years of age and older)

See Section 42-213.2(x) for exemption of these payments as property.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10553.

Repeal MPP Section 44-111.437

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

•4 Exclusions or Exemptions of Other Payments and Income
(Continued)

•43 Loans and Grants (Continued)

•437 Any other loans, regardless of their availability to meet current needs, when it is verified that the following conditions are met:

a. The terms of the loan are stated in a written agreement between the lender and the borrower; and

b. The agreement clearly specifies (1) the obligation of the borrower to repay the loan, and (2) a repayment plan which provides for installments of specified amounts to begin within 90 days of the receipt of the loan and continue thereafter on a regular basis until the loan is fully repaid.

As part of the verification process, the recipient is required to submit loan contract papers or a written agreement setting forth the terms of the loan regarding its amount and the repayment plan. The agreement must be signed by the lender and the recipient as parties to the agreement.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 45 CFR 233.20(a)(3)(iv)(B).

Amend and Renumber MPP Section 44-111.438 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

•4 Exclusions or Exemptions of Other Payments and Income
(Continued)

•43 Loans and Grants (Continued)

- 4387 Any other loans or grants to the extent when it is verified that the proceeds are not available to meet current needs. For purposes of this section current needs are defined as those items covered in Section 44-115.8.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 45 CFR 233.20(a)(3)(iv)(B).

Adopt MPP Section 44-113.13 to read:

44-113 NET INCOME (Continued)

44-113

•13 Loans Available for Current Needs

Loans which are not restricted to preclude their use for current needs shall be considered income. Net income from a loan is the amount available to meet current needs of the assistance unit. For purposes of this section current needs are defined as those items covered in Section 44-115.8.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 45 CFR 233.20(a)(3)(iv)(B).

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

**FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW**

ORD #0185-02

508151

RECEIVED FILING

AUG 15 2 34 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

AUG 22 1985

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

AUG 22 1985

At 4:45 o'clock P. M.

MARCH FONG EU, Secretary of State

By Maya Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Dion Webb, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: _____

SECTIONS ADOPTED

50-014

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☐ Regular

☒ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF ADOPTION OF REGULATION(S)

August 14, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☒ Effective on _____ filing with the

Secretary of State (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☒ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
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(OAL-4)

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(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

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- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

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Part 8. Check appropriate box. This information is for statistical purposes.

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- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

State of California

Health and Welfare Agency

MEMORANDUM

To : Office of Administrative Law
1414 K Street, Suite 600
Sacramento, CA 95814

Date: August 13, 1985

Subject: ORD #0185-02
Request for an
Early Effective Date

From: Department of Social Services, 744 P Street, Sacramento, CA 95814

The accompanying set of regulations is being submitted for emergency filing. Prior to filing, the Department is requesting that your office perform its review of the Statement of Emergency for concurrence. Approval of emergency filing is necessary in order to release funds for the printing of required claim forms and notices at this time. A disapproval would require date changes in the forms and notices. Filing the regulations as soon thereafter as possible will maximize the lead time we have for the printing and distribution of those notices.

Should you have any questions or concerns with this request please contact me at 445-0313.



Rosalie Clark, Chief
Office of Regulations Development

Attachment

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Adopt new Section 50-014 to read:

50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, 50-014
WOOD V. WOODS, WRIGHT V. WOODS, AND ANGUS V. WOODS

.1 Background

.11 North Coast Coalition v. Woods

On November 29, 1979, the Mendocino County Superior Court issued a Preliminary Injunction enjoining the Department from enforcing EAS Sections 44-113.5 and 44-133.7 insofar as the portion from the required Unrelated Adult Male's (UAM's) contribution which is for the UAM's own living expenses and any contribution made by the UAM, whether cash or in-kind, for a partial item of need which was specifically designated by the UAM to be for his own living expenses was considered under those regulations to be income available to the AFDC Assistance Unit (AU). This injunction was stayed while the Department's appeal was pending.

On May 5, 1980, the Court of Appeal of the State of California, First Appellate District, ordered that the injunction be given effect during the remainder of the appeal process. On October 1, 1980, the Court of Appeal affirmed the Order granting the preliminary injunction. The Department implemented the preliminary injunction on October 1, 1980 on a prospective basis. Under the final judgment entered into on November 7, 1984, the terms of the preliminary injunction are to be applied to the period August 1976 through September 1980.

On November 7, 1984, the Mendocino County Superior Court issued a stipulation of settlement and approval of agreement accepting the terms of the Settlement Agreement entered into by parties to this action.

.12 Woods v. Woods

On January 25, 1980, the San Mateo County Superior Court issued a Temporary Restraining Order prohibiting the Department from implementing regulations amending MPP Sections 43-105.5, 44-115, 44-133 and 44-106 filed on an emergency basis effective January 1, 1980 providing that the spouse's community property interest in the income of a nonadoptive stepparent was to be considered unconditionally available to the spouse for the support

of the stepchild(ren) living in the home. On February 26, 1980, the Superior Court ruled in favor of the Department by denying the plaintiffs' application for a preliminary injunction and vacating and dissolving the temporary restraining order. The plaintiffs appealed this ruling.

On July 19, 1982, the Court of Appeal of the State of California, First Appellate District, reversed the ruling of the Superior Court. The Court of Appeal ruled that Civil Code Section 5127.6, which was the basis for the amendment to MPP 43-105.5, did not create a duty on the part of the stepparent to support nonadopted children. Therefore, the regulations implemented effective January 1, 1980 were invalid.

The Omnibus Budget Reconciliation Act of 1981 mandated the inclusion of stepparent income in determining eligibility for AFDC benefits, regardless of whether or not a state law mandates support for nonadopted children. This rendered the issue presented in the Wood case moot on a prospective basis.

The Court of Appeal, however, ruled on September 30, 1982 that plaintiff's were entitled to retroactive benefits from January 1, 1980 through October 1, 1981.

On March 1, 1985, the San Mateo County Superior Court issued a final judgment which incorporated the September 30, 1982 decision of the Court of Appeal and the terms of the Settlement Agreement entered into by the parties to this action.

.13 Wright v. Woods

As a result of the decision in Garcia v. Swoap (1976) 63 Cal. App. 3d 903, cert. den., 436 U.S. 930, the Department implemented regulations (MPP Section 44-316) on August 1, 1979 providing for supplemental AFDC payments to recipients who suffered a loss or decrease of income in the payment month. The regulations required that supplemental payments be issued to AFDC recipients who requested them in the month in which their AFDC payment together with their total income, was less than 80 percent of the Maximum Aid Payment (MAP).

In Garcia v. Woods (1980) 103 Cal. App. 3d 702, the Court of Appeal held that supplemental payments must be made in an amount so that the AFDC payment, together with total income, equals the full amount of the MAP.

However, because plaintiffs in Garcia sought only injunctive and declaratory relief, retroactive benefits were not awarded. A change in state law removed the full supplemental payment requirement on a prospective basis.

On May 28, 1981, the Court of Appeal of the State of California, First Appellate District, in the case of Wright v. Woods, (1 Civil 48535), which had raised the same legal issues as Garcia, ruled that class members were entitled to file claims for underpayments as a result of not receiving a full supplemental payment.

Pursuant to the Court of Appeal decision in Wright, the Department is required to issue retroactive supplemental payments to all claimants who would have been eligible for a supplemental payment from July 18, 1976 through December 31, 1980 for any month in which the claimant's AFDC payment together with total income was less than 100 percent of MAP.

On March 1, 1985, the San Mateo County Superior Court issued a final judgment which incorporated the May 28, 1981 decision of the Court of Appeal and the terms of the Settlement Agreement entered into by the parties to this action.

•14 Angus v. Woods

On August 25, 1980, the United State District Court for the Northern District of California issued a preliminary injunction requiring the Department to cease all collection of willfully caused overpayments of AFDC from current grants. The court ruled that the Department's regulations (MPP Section 44-353) were invalid in that they did not provide a process for consideration of the individual facts of each recipient family's financial circumstances in determining undue hardship in connection with an AFDC grant adjustment, consistent with federal regulations.

On May 1, 1981, the Department adopted MPP Section 44-353.241(b) delineating a method of willful overpayment recoupment by grant adjustment which complied with the Preliminary Injunction.

The Omnibus Budget Reconciliation Act of 1981, changed the method of overpayment recoupment. As a result of the changes in federal law, the regulations implementing the preliminary injunction were repealed on April 2,

1982 and the issue presented in the Angus case is moot on a prospective basis.

On November 22, 1982, the United States District Court for the Northern District of California granted plaintiff's motion for summary judgment. The order established the retroactive period from August 31, 1977 through the date the Department fully implemented the preliminary injunction on January 1, 1981. For the period from January 1, 1981 until the Department adopted regulations on May 1, 1981, the County Welfare Departments were instructed to cease all recoupment of willfully caused overpayment by grant adjustment. Therefore, the retroactive period ordered by the District Court is from September 1, 1977 through December 31, 1980.

On July 12, 1985, the United States District Court issued a final judgment which incorporated its November 22, 1982 order modified by the terms of the Settlement Agreement entered into by the parties to this action.

.15 Settlement Agreement

On January 25, 1984, plaintiffs' counsel proposed a settlement which set forth the manner of notice and distribution of retroactive benefits to class members of all four cases. The Department entered into negotiations with plaintiffs' counsel to arrive at a mutually acceptable agreement.

On October 18, 1984 the Settlement Agreement was entered into by plaintiffs' counsel and the Department. Under the terms of paragraph 8(9) of this Agreement, the Department is required to implement its provisions on July 1, 1985.

However, because not all of the courts having jurisdiction over the individual cases approved the provisions of the Agreement by March 1, 1985 (as required by Section 0 "Approval of Agreement") the time frames for implementing this Agreement were delayed until all approvals were obtained. The final approval was obtained on July 12, 1985. This caused the balance of the time frames to be continued from this date. As a result, the Department is required to implement the provisions of this Agreement within 122 days from the date the final approval was obtained. (The 122-day period represents the number of days between March 1, 1985 and July 1, 1985.) Therefore, the provisions of

this Agreement must be implemented no later than November 11, 1985. In order that the provisions of this agreement commence on the first day of the month, as it would have been had all courts approved the agreement prior to March 1, 1985, the Department concluded that the earliest it could be implemented was November 1, 1985. This date was selected because of the time needed to file these regulations and complete the printing of necessary forms.

The Settlement requires that retroactive benefits to eligible claimants be: (1) calculated through the use of existing case file information (actual benefits); or (2) in the event the case file information is missing or incomplete (preventing the calculation of actual benefits) issued through the use of an average monthly benefit amount specified for each individual case. In addition to requiring retroactive payments, the settlement requires that prejudgment interest be paid on retroactive payments. The amount of the interest is to be computed based on a percentage of the retroactive benefit awarded for a calendar year within the specified retroactive period.

The following provisions describe the procedure by which retroactive benefits will be claimed and eligibility for payment determined.

.2 Informing potentially eligible persons of the availability of retroactive benefits.

- .21 In order to notify the classes of potentially eligible persons, the State Department of Social Services (SDSS) shall:
 - .211 Send by first class mail a notice printed in both English and Spanish together with an individual claim form for each case (Angus v. Woods, TEMP 1620; North Coast Coalition v. Woods, TEMP 1621; Wood v. Woods, TEMP 1622; and Wright v. Woods, TEMP 1623) printed in English along with a listing of addresses for Legal Aid Offices and CWD Offices on November 1, 1985 to prescribed former Medi-Cal recipients who received such benefits any time between July 1981 and December 1982.
 - .212 Conduct an advertising and public relations campaign beginning on November 1, 1985.

- .213 Issue posters printed in both English and Spanish informing the general public of the availability of benefits. The posters shall contain the same language as contained on the mailed notice.

(a) These posters shall be provided to the Employment Development Department, Social Security Administration and CWDs for posting in offices throughout the State of California from November 1, 1985 through February 28, 1986. Additional posters will be available for posting in all legal services offices in the state.

- .214 Provide a toll free telephone number so Spanish speaking potential claimants may call the Department to obtain the Spanish version of the claim forms specified in .211 above.

(a) The toll free telephone number shall be listed only on the Spanish version of the notice and poster.

- .215 Print and provide CWDs with sufficient copies of the Notice and claim forms specified in .211 for mailing to all AFDC recipients.

- .216 Provide CWDs camera-ready copies of the English and Spanish Notice and the English and Spanish claim forms specified in .211.

.22 In order to notify the classes of potentially eligible persons, the county welfare department (CWD) shall:

- .221 Send by first class mail on November 1, 1985 to all current AFDC recipients the SDSS supplied notice, printed in both English and Spanish, together with an individual claim form for each case (Angus v. Woods, TEMP 1620; North Coast Coalition v. Woods, TEMP 1621; Wood v. Woods, TEMP 1622; and Wright v. Woods, TEMP 1623), printed in English along with a listing of addresses for legal aid offices and CWD offices.

- .222 Post English and Spanish informing posters supplied by SDSS in a conspicuous location in all CWD offices from November 1, 1985 through February 28, 1986.

- .223 Forward a supply of the English and Spanish informing posters supplied by SDSS to all Food Stamp issuance outlets within the county with a request that the posters be displayed in conspicuous locations from November 1, 1985 through February 28, 1986.
- .224 Reproduce a supply of the English and Spanish claim forms specified in .221 sufficient to provide them to anyone upon request.
- .225 Give or mail the notice and either the English or Spanish claim forms, whichever is appropriate, to a claimant upon request.

.3 Application for Retroactive Benefits

.31 Claimant Responsibilities

- .311 The claimant shall complete the appropriate claim form for each court case in which he/she is requesting retroactive benefits.
- .312 The claimant shall sign the claim form(s) under penalty of perjury.
- .313 The claimant shall return the claim form(s) to the CWD in the county from which he/she received or was denied/discontinued AFDC cash aid during the month(s) he/she is claiming retroactive benefits.
 - (a) A separate claim form(s) shall be completed and returned to each county in which the claimant wishes to claim retroactive benefits.
- .314 The claim form(s) shall be submitted to the proper CWD by February 28, 1986. Claims submitted after this date shall be denied, except as provided in .315(b) below.
 - (a) Unless the evidence indicates otherwise, the date the claim form is submitted shall be determined as follows:
 - (1) The postmark date of the envelope, when the claim is mailed to the CWD; or

(2) The date stamped on the claim form by the CWD, when the claim is delivered in person to the CWD; or

(3) The date the claim form was signed by the claimant, when the date cannot be determined by either (1) or (2) above.

.315 The claimant shall be permitted to resubmit a previously denied claim or portion thereof or reapply if the date of resubmittal is:

(a) Prior to the close of the claim period specified in .314 above, or

(b) Prior to March 31, 1986 or 30 days from the date of the denial, whichever is later, when the claim was denied in accordance with .422 below and the claimant resubmits the claim form to the correct CWD. In the event the correct CWD is determined as a result of a fair hearing, the claimant may resubmit the claim form(s) within 30 days of the hearing decision.

.32 CWD Responsibilities

.321 The CWD shall stamp each claim form with the date the form was received and shall retain all envelopes that were postmarked after February 28, 1986.

.322 Claims submitted after the date specified in .314 above shall be denied except as provided in .315(b) above.

.323 The CWD shall determine eligibility and issue retroactive benefits to eligible claimants or deny the claim, as appropriate, within 120 calendar days of receipt of the claim form except as provided in (b) and (c) below.

(a) Within this same 120-day period, the CWD shall issue a Notice of Action (NOA) explaining to the claimant:

(1) The disposition of the claim;

(2) The computation of retroactive benefits; and

(3) The right to request a state hearing.

(b) The CWD may exceed the 120-day period in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the CWD. In these instances, the case record must document the cause for delay.

(c) Inability of the CWD to complete the determination of eligibility within the 120-day period shall not be a basis for denying the claim unless the delay is caused by the refusal of the claimant to participate in the gathering of the needed information, clarification or verification. (See Section 50-014.438.)

.324 The CWD shall submit certification to SDSS on or before December 31, 1985. The certification shall be submitted on the form (TEMP 1642) provided by SDSS and shall contain:

(a) The date on which the notice and claim forms were mailed to current AFDC recipients;

(b) Any problems encountered in mailing of the notice and claim forms which may affect the number of claims received;

(c) Any problems encountered in the process of receiving claims which may have affected the actions taken on those claims.

.325 The CWD shall submit to SDSS a statistical report for each court case on or before May 30, 1986. The CWD shall submit to SDSS a final statistical report by July 30, 1986 for each court case in which the initial report showed claims pending a decision as of May 1, 1986. The reports shall be submitted on the forms (TEMP 1635, 1635A, 1635B, and 1635C) provided by SDSS and shall contain:

(a) The following statistics broken out by each court case and by the first year for which

the claimant requested retroactive benefits:

- (1) Number of claims received;
- (2) Number of claims denied in full;
- (3) Number of claims granted in full using case record information; and
- (4) Number of claims granted in full using the average monthly benefit table.

(b) The following statistics by each court case:

- (1) Number of claims in which missing information, clarification, or verification was needed;
- (2) Number of claims granted in part and denied in part;
- (3) Number of claims which had payments from other retroactive court cases used in the benefit computation;
- (4) Number of claims in which outstanding collectable overpayments were recouped;
- (5) Number of claims pending a decision as of May 1, 1986;
- (6) Total amount of benefits paid out using case record information, including interest;
- (7) Total amount of benefits paid out using the average monthly benefit table, including interest;
- (8) Total amount of other retroactive payments used in the benefit computation; and
- (9) Total amount of outstanding collectable overpayments recouped.

(c) The following statistics by each court case, and by claims granted in full or in part and by claims denied:

(1) Number of claimants who were former recipients of AFDC that learned of the availability of retroactive benefits through:

(A) The mailing;

(B) The Advertising / Public Relations Campaign;

(C) The poster;

(D) Other; and

(E) Did not indicate

•4 Claim(s) Processing

•41 Review of Class Membership Questions

Upon receipt of the claim form(s), the CWD shall review the responses to the class membership qualifying questions. The class membership questions are in the shaded boxes on the front page of each claim form. In order for the claimant to be potentially eligible for retroactive benefits under the case, the claimant must answer "yes" to all the class membership questions on the appropriate claim form except on the Angus v. Woods claim form. On the Angus v. Woods claim form, the first three (3) questions must be answered "yes" and either the fourth or fifth question must be answered "yes".

•411 If the claimant fails to provide a response to one or all of the questions necessary to certify class membership, the CWD shall return the claim form to the claimant for completion in accordance with •433 below.

•412 If the claimant's answers to the class membership question(s) on the front page of the specific claim form indicate that the claimant is not in the class, the CWD shall deny the claim with a NOA informing the claimant of his/her right to a state hearing.

.413 Verification of receipt, denial, or discontinuance of AFDC shall not be required.

.42 Wrong County Received Claim Form

If a CWD receives a claim for any period in which, the CWD can determine from the claim form that the form has been submitted to the wrong county, the CWD shall either:

.421 Forward the claim form or a copy thereof to the correct CWD with a copy of the NOA sent to the claimant indicating the month claimed to be processed by the second CWD, when the correct CWD can be determined from the information on the claim form. In addition, the CWD shall inform the claimant on an NOA that, for the period in question, his/her claim has been forwarded to the correct CWD for processing.

(a) The date the claim form was submitted to the first CWD, as determined in .314 above, shall be used by the second CWD.

-or-

.422 Deny that period claimed in which the correct CWD cannot be determined from the information on the claim form. The CWD shall return the claim form or a copy thereof together with the NOA informing the claimant of:

(a) The month(s) being denied;

(b) The right to a state hearing;

(c) The ability to resubmit the claim for the month(s) in question to the correct CWD within the time limits specified in .315 above; and

(d) The need to attach a copy of the NOA when resubmitting the claim form to the correct CWD.

.43 Review of Information Contained on the Claim Form(s)

.431 The CWD shall review each claim form to determine if the claimant has provided the information needed in order to locate the appropriate case

record information. For the purpose of this determination, a claim form shall be considered complete when all the following requirements are met:

- (a) The qualifying class membership questions contained on the front page of each claim form are answered; and
- (b) The claimant has provided his/her name, current address, social security number, date of birth, telephone number, county in which he/she received AFDC, and current recipient status (failure to provide his/her old address, AFDC case number or the month/year in which AFDC was denied/discontinued would not render the form incomplete); and
- (c) The claimant has indicated which month(s)/year(s) retroactive benefits are being claimed; and
- (d) The claimant for North Coast Coalition v. Woods or Wood v. Woods retroactive benefits, provides either a "yes" or "no" response to the question regarding the denial/discontinuance of AFDC for any of the month(s)/year(s) claimed.
- (e) The claimant for Angus v. Woods retroactive benefits provides a response to the question regarding the presence of his/her spouse in the home during the month(s)/year(s) being claimed.
- (f) The claim form has been signed under penalty of perjury the lack of the spouse/other parent's signature would not render the form incomplete.

•432 The CWD shall review the information contained on all claim forms and request clarification if the information is internally inconsistent. At a minimum, the CWD shall request clarification when any of the following conditions exists:

- (a) The claimant files a claim for retroactive benefits for both North Coast Coalition v. Woods (UAMs) and Wood v. Woods

(stepparents) during the same claim month;
or

(b) The claimant's old address provided on the claim form does not correspond to the county in which the claimant indicated he/she received AFDC; or

(c) The claimant indicates that his/her AFDC was stopped prior to the month(s)/year(s) for which retroactive benefits are being claimed in either Angus v. Woods or Wright v. Woods; or

(d) The claimant indicates that his/her AFDC was stopped on a certain date on the front page of the North Coast Coalition v. Woods (TEMP 1621) or Wood V. Woods (TEMP 1622) claim form, but indicates a different date on the back page of the claim form in the section regarding the information about the AU during the period claimed when the AU was denied/discontinued.

.433 In order to obtain the required information specified in .431 above, .543, and .643 below; the needed clarification specified in .432(a) through (d) above, .543, .643, and .732 below or the necessary verification specified in .544, or .644 below, the CWD shall send the claimant a notice which specifies the missing information, requested clarification or verification needed. A copy of the claim form(s) shall be attached to the notice. The claimant shall have 30 days from the date of the notice to respond to the request. Information shall be gathered in accordance with MPP Section 40-157.

.434 The notice specified in .433 above shall inform the claimant of his/her ability to request a "good cause" extension to the 30-day deadline. If verification is requested, the notice shall also inform the claimant that if he/she is unable to provide the requested verification, a declaration signed under penalty of perjury by the claimant affirming the information is acceptable in lieu of the verification.

.435 The CWD shall grant a "good cause" extension for up to 30 days beyond the deadline contained on the notice when:

- (a) The claimant indicates to the CWD, either verbally or in writing of his/her need for additional time to comply with the request; and
- (b) The claimant is cooperating in obtaining the requested information, clarification or verification; and
- (c) The claimant makes the "good cause" request prior to the expiration of the deadline, unless the CWD finds that the claimant was prevented from making such request because of circumstances beyond his/her control. In the situation where circumstances were beyond the claimant's control, the request after the deadline shall be accepted.

.436 The CWD shall note on the claim form the date, disposition of the "good cause" request, and the new deadline when an extension has been granted.

.437 Upon receipt of the requested information, clarification or the verification within the original or extended deadline(s), the CWD shall proceed with the processing of the claim(s) or the determination of potential eligibility for retroactive benefits under the provisions specified below for the court case(s) claimed.

.438 Failure on the part of the claimant to respond without good cause as specified in .435 above within the original or extended deadline(s), shall result in the denial of that portion of the period claimed for which the information, clarification, or verification was requested. For any remaining portion of the period claimed, the CWD shall proceed with the processing of the claim(s).

.44 Establishing Claimant's Connection to AFDC

When the CWD has received a complete and internally consistent form and the form indicates that claimant learned of the case by the mailer, the CWD shall proceed with the determination of potential eligibility for

retroactive benefits under the section for the appropriate court case.

.441 When the claim form either shows that the claimant learned of the case other than by the mailer or does not indicate how the claimant learned of the case, the CWD shall review all existing records and shall deny the claim if no record can be found that the claimant applied for or received AFDC. This provision applies only when the CWD can certify that a listing of AFDC cases (such as the AFDC payroll or warrant register) was retained in addition to AFDC case records for the month(s)/year(s) claimed. In addition, this provision can be applied to claimants who were denied AFDC only when the CWD can certify that existing AFDC case records include all denials. The NOA denying the claim shall inform the claimant of the right to a state hearing.

.45 Order of Claims Processing

For claimants who are requesting retroactive benefits under more than one court case, the CWD shall determine the potential eligibility for retroactive benefits in the following order:

.451 North Coast Coalition v. Woods (see Section 50-014.5);

.452 Wood v. Woods (see Section 50-014.6);

.453 Wright v. Woods (see Section 50-014.7);

.454 Angus v. Woods (see Section 50-014.8).

.46 Review of Period Claimed - Defined

For the purposes of the case record review process specified in Sections .53, .63, .72 and .82 below, the CWD shall expand those months actually claimed to include three payment months immediately preceding and following each month claimed, so long as the expanded claim period falls within the periods of retroactivity specified in Sections .51, .61, .71 and .81 below.

.461 The purpose of this review is to determine a claimant's potential eligibility for actual retroactive benefits during these expanded review months.

- (a) In the event that there is no case record information or the case record information is insufficient to compute actual retroactive benefits in accordance with Sections .536, .636, .725 or .827 below for the expanded review months, the claimant is not entitled to average retroactive benefits for the expanded claim period.
- (b) In the event that the claimant is ineligible for retroactive benefits, based on the case record information, during the expanded review months, no further action is required on the part of the CWD.
- (c) In the event that the claimant is eligible for retroactive benefits and the amount can be calculated in accordance with Sections .536, .636, .725 or .827 below, the CWD shall compute the actual retroactive benefits for the expanded review months.
 - (1) The CWD shall include the expanded review months showing the computation of benefits on the appropriate computation page(s) of the claimant's NOA approving back aid.

.5 Determination of Eligibility for Retroactive Benefits Under the North Coast Coalition v. Woods Court Order

.51 Class Membership

.511 Claimants potentially eligible to receive retroactive benefits are persons who:

- (a) Had a Unrelated Adult Male (UAM) living in the home; and
- (b) Had their AFDC cash aid reduced, denied, or discontinued for any period from August 1, 1976 through September 30, 1980 because of the application of MPP Sections 44-113.5 and 44-133.7 which deemed as income to the Assistance Unit (AU) a portion of the UAM's required contribution for his own living expenses.

.512 For those claimants who were denied/discontinued AFDC, the claimant must have been

denied/discontinued, for any month claimed, solely because the AU was found financially ineligible because the amount of income deemed to the AU from the UAM, when added to other net nonexempt income of the AU, exceeded the Minimum Basic Standard of Adequate Care (MBSAC) for the size of the AU. See Appendix 8 to MPP Section 50-014 for MBSAC levels.

.52 Confirming Class Membership

The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.53 Case Record Review

.531 For each month being claimed (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms the presence of a UAM in the home; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .536 below.

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.532 The case record documents listed below may assist the CWD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents may be needed.

- (a) The UAM Contribution Statement;
- (b) The appropriate Statement of Facts (CA 2, CA8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheet;

(e) Any NOA changing the amount of the grant because of the deeming of income to the AU from the UAM; and

(f) Any pertinent case narrative.

.533 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

(a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.534 The CWD shall compute the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits), when for that claim month(s):

(a) The CWD has received a complete and internally consistent claim form; and

(b) The claimant indicated on the claim form that she received AFDC and either;

(1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or

(2) The CWD located the claimant's case record, but it did not contain sufficient information to calculate the retroactive benefit as specified in .536 below.

.535 The CWD shall determine the claimant's potential eligibility for and the amount of retroactive benefits for any month claimed in accordance with .54 below, when:

(a) The CWD has received a complete and internally consistent claim form; and

(b) The claimant indicated on the claim form that he/she was denied/discontinued and either;

(1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or

(2) The CWD located the claimant's case record and it indicates that the claimant was denied/discontinued from AFDC.

.536 Calculation of Actual Retroactive Benefits

When the case record contains sufficient information to calculate the amount of the retroactive benefits, the CWD shall determine the amount of the retroactive benefits as follows:

(a) Determine the potential entitlement by subtracting from the Maximum Aid Payment (MAP) level for the AU:

(1) All net nonexempt income from the budget month other than that deemed from the UAM:

(2) Other adjustments to the grant not associated with the deeming of income from the UAM (e.g., overpayment recoupments); and

(3) Any income from the UAM which was actually available to the AU in accordance with current MPP Section 44-113.5, as indicated by the case record.

(b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:

(1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and

- (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose.).
- (c) Determine the net entitlement by subtracting the amount determined in (b) above from the amount of potential entitlement determined in (a) above.
- (d) Determine the amount of the potential retroactive benefit by adding to the net entitlement determined in (c) above any amount of overpayment, for the claim month which was recouped in a later month when the overpayment was caused by the deeming of UAM income to the AU, unless the claim includes the month in which the overpayment was recouped. The amount recouped includes recovery by grant adjustment or other means (i.e., demand letter, voluntary repayment, etc.) attributable to the month claimed.
- (e) The amount of the payable retroactive benefit is the amount determined in (d) above when the amount is a positive number.
- (1) The CWD shall deny the month claimed when the amount determined in (d) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the month claimed.
- (f) Determine the amount of the total retroactive benefits by calendar year, computed using case record information, by adding together the amount(s) determined in (e) above for each eligible month claimed in that calendar year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for July 1977. The case record:

- (1) Confirms the presence of the UAM in the home;
- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$40 in net nonexempt income from other than the UAM;
- (4) Shows a recoupment of a nonwillful overpayment of \$50 (not associated with the UAM);
- (5) Shows there was no actual income to the AU from the UAM;
- (6) Shows that the grant originally issued was \$266; and
- (7) Shows there was a willful overpayment associated with the failure to report the presence of the UAM for the month claimed which was recouped in December 1977 in the amount of \$109 (allowing \$297 to the AU to meet the MBSAC level for the children in the AU by adding to the grant of \$117 the amount of available resources of \$50 in disregards and \$130 in net nonexempt income.)

The amount of the payable retroactive benefits is as follows:

H A N D B O O K

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	Nonwillful overpayment adjusted in 7/77
<u>- 0</u>	Actual income from UAM
\$ 266	Potential entitlement per .536(a)
\$ 266	AFDC grant issued (.536(b))
0	Net entitlement per .536(c)
+ 109	Amount of overpayment recouped because of nonreporting of UAM
<u>-----</u>	
\$ 109	Potential retroactive benefit per .536(d), also the payable retroactive benefit per .536(e)

Example 2:

Same case situation as in Example 1 except: The grant originally issued was \$176 (in addition to the deductions in Example 1, \$90 was computed from MPP Section 44-113.5 (UAM contribution) and deducted from MAP) and there was no overpayment caused by the presence of the UAM. However, the case record confirms that \$40 of the \$90 was actually made available to the AU by the UAM.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	Nonwillful overpayment adjusted in 7/77
<u>- 40</u>	Actual income from UAM
\$ 226	Potential entitlement per .536(a)
- 176	AFDC grant issued (.536(b))
50	Net entitlement per .536(c)
+ 0	Amount of overpayment recouped because of nonreporting of UAM
<u>-----</u>	
\$ 50	Potential retroactive benefit per .536(d), also the payable retroactive benefit per .536(e)

Example 3:

Same case situation as in Example 1 except: there was \$80 in available income to the AU from the UAM, the grant issued was \$206 (in addition to the \$176 original issued the claimant received \$30 in Green v. Obledo retroactive benefits for the month claimed) and there was no overpayment caused by the presence of the UAM.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	No willful overpayment adjusted in 7/77
<u>- 80</u>	Actual income from the UAM
\$ 186	Potential entitlement per .536(a)
	\$ 176 AFDC grant originally 30 issued <u>Green v. Obledo</u> retroactive benefit
	\$ 206 AFDC grant issued (.536(b))
<u>- 206</u>	
\$ <20>	Net entitlement per .536(c)
+ 0	Amount of overpayment recouped because of the presence of the UAM
<u>-----</u>	
\$ <20>	Potential retroactive benefit per .536(d)

In this example, the claimant is not eligible for a payable retroactive benefit because the amount of AFDC issued exceeds the claimant's entitlement. The claim for this month would be denied per .536(e)(1).

.54 Determining Eligibility for Cases Which Were Denied/Discontinued

.541 The CWD shall review the response to the AFDC eligibility questions contained on the back of the

claim form, regarding the names and ages of the children living in the home and annual income of the claimant during the month(s)/year(s) being claimed when the claimant did not receive AFDC, for completeness.

(a) For the purpose of this review, the response shall be considered complete when the claimant provides:

(1) The name and the birth date of at least one child living in the home during the month(s) claimed; and

(2) An annual income amount for the year(s) in which he/she has claimed any month of retroactive benefits.

.542 The CWD shall consider the completed information specified in .541(a) above consistent with the known case record information when:

(a) The name(s) and birth date(s) of the children provided on the claim form match those contained in the case record; and

(b) The amount of the annual income of the claimant provided on the claim form (when averaged over a 12-month period) appears "reasonable" when compared to the monthly income previously reported.

(1) For this purpose, consider the annual income provided "reasonable" when, after determining an average monthly amount, the average monthly amount is approximately the same or greater than the monthly income previously reported.

.543 In order to obtain the needed information (as specified in .541(a) above) or the clarification needed to explain any inconsistency, (as specified in .542 above), the CWD shall send the claimant the notice specified in .433 above.

.544 For those month(s) claimed in which the CWD has no case record or the case record information is insufficient to confirm the information provided regarding the name(s) and date(s) of birth of the

child(ren) or the annual income of the claimant, the CWD shall request on the notice specified in .433 above, the following verifications:

- (a) Evidence of the child(ren)'s date(s) of birth as provided for in MPP Section 42-111.1;
- (b) Evidence of the amount of annual income from a copy of either the federal or state income tax return for the year indicated; and/or
- (c) A statement signed under penalty of perjury that the documentation requested is unavailable.

.545 Determination of the claimant's financial eligibility, for the month(s) claimed for which the claimant did not receive AFDC and is a member of the class, shall be as follows:

- (a) From the name(s) and date(s) of birth of the child(ren) provided, determine the number who meet the age requirement for the month(s) claimed;
- (b) Add to the number arrived at in (a) above, one (the claimant) to arrive at the AU size.
- (c) From the annual income, compute the monthly average income (annual income divided by 12).
- (d) Compare the monthly average income determined in (c) above, to 185 percent of MBSAC for the AU size determined in (b), as specified in (d)(1) below to determine if the claimant would have been financially eligible for the month(s) claimed when the claimant did not receive AFDC.

(1) 185% of MBSAC

HANDBOOK

<u>AU Size</u> <u>Year</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>
<u>1976</u>	<u>311</u>	<u>522</u>	<u>635</u>	<u>781</u>	<u>901</u>	<u>1016</u>	<u>1117</u>	<u>1234</u>	<u>1351</u>	<u>1469</u>
<u>1977+78</u>	<u>327</u>	<u>549</u>	<u>668</u>	<u>821</u>	<u>949</u>	<u>1069</u>	<u>1177</u>	<u>1299</u>	<u>1425</u>	<u>1547</u>
<u>1979</u>	<u>377</u>	<u>633</u>	<u>770</u>	<u>945</u>	<u>1092</u>	<u>1230</u>	<u>1354</u>	<u>1495</u>	<u>1637</u>	<u>1780</u>
<u>1980</u>	<u>435</u>	<u>731</u>	<u>888</u>	<u>1093</u>	<u>1262</u>	<u>1421</u>	<u>1563</u>	<u>1726</u>	<u>1891</u>	<u>2055</u>

(e) The claimant is eligible for retroactive benefits for each month claimed when the AU has at least one child meeting the age requirement in the home, and the amount of the average monthly income is less than 185 percent of MBSAC for the AU as determined in .545(d) above.

(1) The CWD shall compute the amount of retroactive benefits for the month(s) of eligibility in accordance with .91 below (average retroactive benefits).

(2) The CWD shall deny the month(s) of ineligibility with an NOA informing the claimant of the right to a state hearing.

.6 Determination of Eligibility for Retroactive Benefits Under the Wood v. Woods Court Order

.61 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons who:

.611 Had a stepparent living in the home, and

.612 Had their AFDC cash aid reduced, denied, or discontinued for any period from January 1, 1980 through September 30, 1981 because of the application of MPP Sections 43-105.5, 44-115, 44-106, and 44-133 which provided that the

spouse's community property interest in the income of a nonadoptive stepparent was to be considered unconditionally available to the spouse for the support of the stepchild(ren) receiving AFDC.

- (a) For those claimants who were denied/discontinued AFDC, the claimant must have been denied/discontinued, for any month claimed, solely because the AU was found financially ineligible because the amount of income deemed to the AU from the community property interest in the stepparent's income, when added to other net nonexempt income of the AU, exceeded the Minimum Basis Standard of Adequate Care (MBSAC) for the size of the AU. See Appendix B to MPP Section 50-014 for MBSAC levels.

.62 Confirming Class Membership

The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.63 Case Record Review

- .631 For each month being claimed (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms the presence of a stepparent in the home who was not included in the AU and who had none of his/her own children included in the AU; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .636 below.

.632 The case record documents listed below may assist the CWD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents may be needed.

- (a) The Stepparent Income Statement (CA 2.2);
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheet;
- (e) Any NOA changing the amount of the grant because of the deeming of the spouse's community property interest in the income of the stepparent to the AU for the support of the stepparent's nonadopted child(ren); and
- (f) Any pertinent case narrative.

.633 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.634 The CWD shall compute the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits) when, for that claim month(s);

- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim that he/she received AFDC and either;

(1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or

(2) The CWD located the claimant's case record, but it did not contain sufficient information to calculate the retroactive benefit as specified in .636 below.

.635 The CWD shall determine the claimant's potential eligibility for and the amount of retroactive benefits for any month claimed in accordance with .64 below, when:

(a) The CWD has received a complete and internally consistent claim form; and

(b) The claimant indicated on the claim form that he/she was denied/discontinued and either;

(1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or

(2) The CWD located the claimant's case record and it indicates that the claimant was denied/discontinued from AFDC.

.636 Calculation of Actual Retroactive Benefits

When the case record contains sufficient information to calculate the amount of the retroactive benefit, the CWD shall determine the amount of the retroactive benefit as follows:

(a) Determine the potential entitlement by subtracting from the MAP level for the AU:

(1) All net nonexempt income from the budget month other than that computed from MPP Section 44-133.632 in effect from January 1, 1980 until September 30, 1981 (stepparent contribution);

(2) Other adjustments to the grant not associated with the application of that regulation (e.g., overpayment recoupments); and

(3) Any cash made available to the AU by the stepparent, based on information contained in the existing case record. For purposes of this section, the amount of cash made available to the AU shall be determined from information on the Stepfather Questionnaire (CA 2.2) in effect for the claim month as follows:

(A) If the parent answered "no" to question number 2 (Is all or a part of your husband's income available for you to use for your children?), proceed to question number 6 and determine any amounts the parent reported in the third, fourth, and sixth boxes (i.e. deposited in my separate checking or savings account, turned over to me to use for our family expenses, kept in cash for both of us to use). The total of these amounts is the amount of cash that the stepparent made available to the AU.

(B) If the parent answered "yes" to question number 2 (Is all or a part of your husband's income available for you to use for your children?), proceed to question number 6 and determine any amounts the parent reported in the first, third, fourth, and sixth boxes (i.e. deposited in a joint checking or savings account, deposited in my separate savings or checking account, turned over to me to use for our family expenses, kept in cash for both of us to use). The total of these

amounts is the amount of cash the stepparent made available to the AU.

(C) Compare the amount of cash made available to the AU, as determined in (A) or (B) above, to the net stepparent income calculated by subtracting prior child support liability, mandatory deductions, and the MBSAC for the stepparent unit from the stepparent's gross income. The amount to be subtracted from the MAP to determine potential entitlement for retroactive benefits is the lesser of the net stepparent income or the amount determined in (A) or (B) above.

(b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:

(1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and

(2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose.).

(c) Determine the net entitlement by subtracting the amount determined in (b) above from the amount of potential entitlement determined in (a) above.

(d) Determine the amount of the retroactive benefit by adding to the net entitlement determined in (c) above any amount of an overpayment for the claim month which was recouped in a later month, when the overpayment was caused by the deeming of stepparent income to the AU, unless the

claim includes the month in which the overpayment was recouped. The amount recouped includes recovery by grant adjustment or other means (i.e., demand letter, voluntary repayment, etc.) attributable to the month claimed.

(e) The amount of the payable retroactive benefit is the amount determined in (d) above when the amount is a positive number.

(1) The CWD shall deny the month claimed when the amount determined in (d) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the months claimed.

(f) Determine the amount of the total retroactive benefits for a calendar year, computed using case record information, by adding together the amount(s) determined in (e) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1

Claimant requests retroactive benefits for November 1980. The case record:

- (1) Confirms that the stepparent lived in the home and neither he/she nor any of his/her own children received AFDC;
- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$40 in net nonexempt income from other than the stepparent;

- (4) Shows there was no other adjustment to the AFDC grant;
- (5) Shows that the stepparent did not provide any cash to the AU to meet the needs of the AU;
- (6) Shows that the grant originally issued was \$433; and
- (7) Shows there was a willful overpayment associated with the failure to report the presence of the stepparent for the month claimed which was recouped in February 1981 in the amount of \$127 (allowing \$386 to the AU to meet the MBSAC level for the children in the AU by adding to the grant of \$165 the amount of available resources of \$50 in disregards and \$171 in net nonexempt income).

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
<u>- 0</u>	Cash provided by stepparent
\$ 433	Potential entitlement per .636(a)
<u>- 433</u>	AFDC grant issued (per .636(b))
0	Net entitlement per .636(c)
+ 127	Amount of overpayment recouped because of nonreporting of stepparent
<u>\$ 127</u>	Potential retroactive benefit per .636(d), also, the

payable retroactive benefit
per .636(c)

Example 2:

Same case situation as in Example 1 except: The grant originally issued was \$302 (in addition to the \$40 net nonexempt income, \$131 was computed from MPP Section 44-133.632 (stepparent computation) and deducted from MAP) and there was no overpayment caused by the stepparent living in the home. However, the case record confirms that \$60 was actually given to the AU by the stepparent to meet their needs.

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
- 60	Cash provided by stepparent
<u>\$ 373</u>	Potential entitlement per .636(a)
- 302	AFDC grant issued (per .636(b))
<u>\$ 71</u>	Net entitlement per .636(c)
+ 0	Amount of overpayment recouped because of the stepparent living in the home
<u>\$ 71</u>	Potential retroactive benefit per .636(d), also the payable retroactive benefit per .636(e)

Example 3:

Same case situation as in Example 1 except: there was \$120 in cash given to the AU by the stepparent to meet their needs, the grant issued was \$324 (in addition to the \$302 originally issued, the claimant received a Green v. Obledo retroactive benefit of \$22) and there was no overpayment caused by the stepparent living in the home.

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
<u>- 120</u>	Cash provided by stepparent
\$ 313	Potential entitlement per .636(a)
- 324	AFDC grant issued (per .636(b))
<u><11></u>	Net entitlement per .636(c)
+ 0	Amount of overpayment recouped because of the stepparent living in the home
<u>\$ <11></u>	Potential retroactive benefit per .636(d)

In this example, the claimant is not eligible for a payable retroactive benefit because the amount of AFDC issued exceeds the claimant's entitlement. The claim for this month would be denied per .636(e)(1).

.64 Determining Eligibility for Cases Which were Denied/Discontinued

.641 The CWD shall review the response to the AFDC eligibility questions on the back of the claim form regarding the names and ages of the children living in the home and the annual income of the

claimant and the stepparent during the month(s)/year(s) being claimed when the claimant did not receive AFDC, for completeness.

(a) For the purpose of this review, the response shall be considered complete when the claimant provides:

(1) The name and the birth date of at least one child living in the home during the month(s) claimed; and

(2) Annual income amounts for both the claimant and stepparent for the year(s) in which he/she has claimed any month of retroactive benefits.

.642 The CWD shall consider the completed information specified in .641(a) above consistent with the known case record information when:

(a) The name(s) and birth date(s) of the child(ren) provided on the claim form match those contained in the case record; and

(b) The amount of the combined annual income of the claimant and stepparent provided on the claim form (when averaged over a 12-month period) appears "reasonable" when compared to the monthly income previously reported.

(1) For this purpose, consider the combined annual income provided "reasonable" when, after determining its average monthly amount, the average monthly amount is approximately the same or greater than the monthly income previously reported.

.643 In order to obtain the needed information (as specified in .641(a) above) or the clarification needed to explain any inconsistency as specified in .642 above the CWD shall send the claimant the notice specified in .433 above.

.644 For those month(s) claimed in which the CWD has no case record or the case record information is insufficient to confirm the information provided regarding the name(s) and date(s) of birth of the

child(ren) or the annual income of the claimant and stepparent, the CWD shall request, on the notice specified in .433 above, the following verifications:

- (a) Evidence of the child(ren)'s date(s) of birth as provided for in MPP Section 42-111.1;
- (b) Evidence of the amount of the combined annual income of the claimant and stepparent from either a copy of the federal or state income tax return for the years indicated; and/or
- (c) A statement signed under penalty of perjury that the documentation requested is unavailable.

.645 Determination of the claimant's financial eligibility for the month(s) claimed for which the claimant did not receive AFDC and is a member of the class, shall be as follows:

- (a) From the name(s) and date(s) of birth of the child(ren) provided, determine the number who meet the age requirement for the month(s) claimed;
- (b) Add to the number arrived at in (a) above, one (the claimant) to arrive at the AU size.
- (c) From the amount of only the claimant's annual income, compute the monthly average of that income (annual income divided by 12).
- (d) Compare the monthly average income determined in (c) above, to 185 percent of MBSAC for the AU size determined in (b) as specified in (d)(1) below to determine if the claimant would have been financially eligible for the month(s) claimed when the claimant did not receive AFDC.

(1) 185% of MBSAC:

<u>AU Size</u> <u>Year</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>
<u>1980</u>	<u>435</u>	<u>731</u>	<u>888</u>	<u>1093</u>	<u>1262</u>	<u>1421</u>	<u>1563</u>	<u>1726</u>	<u>1891</u>	<u>2055</u>
<u>1981</u>	<u>459</u>	<u>755</u>	<u>936</u>	<u>1112</u>	<u>1269</u>	<u>1426</u>	<u>1565</u>	<u>1706</u>	<u>1850</u>	<u>2011</u>

(e) The claimant is eligible for retroactive benefits for each month claimed when the AU has at least one child in the home meeting the age requirement and the amount of the claimant's monthly income is less than 185 percent of MBSAC for the AU as determined in .645(d) above.

(1) The CWD shall compute the amount of retroactive benefits for the month(s) of eligibility in accordance with .91 below (average retroactive benefits).

(2) The CWD shall deny the month(s) of ineligibility with a NOA informing the claimant of the right to a state hearing.

.7 Determination of Eligibility for Retroactive Benefits Under the Wright v. Woods Court Order.

.71 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons whose AFDC cash aid, together with their total outside income, was less than 100 percent of MAP for the AU in the payment month during the period from July 18, 1976 through December 31, 1980.

.711 The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying

questions contained on the claim form, signed under penalty of perjury, as confirmation.

.72 Case Record Review

.721 For each month being claimed, (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms that there was a drop or cessation in the AU's outside income compared to the corresponding budget month; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .725 below.

.722 The case record documents listed below may assist the CWD in locating the information needed to compute the correct grant. Not all of the information contained on these documents may be needed.

- (a) A Request for Supplemental Payment (CA 40);
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheet;
- (e) Any NOA changing the amount of the grant because of the drop in income or the action taken related to the request for a supplemental payment; and
- (f) Any pertinent case narrative.

.723 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

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(a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.724 For those months claimed in which the CWD received a complete and internally consistent claim form, was unable to locate the case record, and was unable to deny the claim in accordance with .441 above or found the case record but it did not contain sufficient information to calculate the retroactive benefit as specified in .725 below, the CWD shall process the claim in accordance with .73 below.

.725 Calculation of Actual Retroactive Benefits

For the month(s) claimed in which the case record information confirms that the claimant's outside income dropped or stopped, and the case record contains sufficient information to calculate the amount of the retroactive benefits, the CWD shall determine the amount of the retroactive benefits for the month(s) claimed (see .46 above) as follows:

(a) Determine the potential entitlement by subtracting from the MAP level for the AU (see Appendix A to MPP Section 50-014 for MAP levels):

(1) The net nonexempt income which was actually received in the month claimed (payment month);

(2) The \$30 and one-third disregard used in computing the net nonexempt income which was actually received in the month claimed; and

(3) Other allowable adjustments from MAP (e.g., overpayment recoupments).

(b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:

- (1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and
- (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose.).
- (c) Determine the net entitlement by subtracting the amount of AFDC cash aid received, as determined in (b) above, from the amount of potential entitlement determined in (a) above.
- (d) The amount of the payable retroactive benefit is the amount determined in (c) above when the amount is a positive number.
 - (1) The CWD shall deny the month claimed when the amount determined in (c) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the month claimed.
- (e) Determine the amount of the total retroactive benefits for a calendar year, computed using case record information, by adding together the amount(s) determined in (d) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for July 1977. The case record:

- (1) Confirms a drop in income between the budget month (May)

and July, the payment month
(month claimed);

- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$150 in net earnings received in the budget month;
- (4) Shows there was \$40 in net nonexempt earnings received in the month claimed;
- (5) Shows the \$30 and one-third disregard for the month claimed equaled \$50;
- (6) Shows a recoupment of a nonwillful overpayment of \$50;
- (7) Shows the amount of the grant originally issued was \$156; and
- (8) Shows no supplemental payment was issued.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received in month claimed
- 50	\$30 and one-third disregard available in the month claimed
- 50	Nonwillful overpayment adjusted in July 1977

\$ 216	Potential entitlement per .725(a)
- 156	AFDC grant issued (.725(b))
<u>\$ 60</u>	Potential retroactive benefit per .725(c), also the payable retroactive benefit per .725(d)

Example 2:

Same case situation as in Example 1 except: the AU also had income deemed from a UAM, and the claimant requested retroactive benefits under North Coast Coalition v. Woods for the same claim month; and it was determined under .536 above that the UAM actually made \$40 available to the AU in July. The AU received \$66 in the original grant payment and \$50 in North Coast retroactive benefits.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received in month claimed
- 50	\$30 and one-third disregard available in the month claimed
- 50	Nonwillful overpayment adjusted in July 1977
- 40	Income from the UAM actually made available to AU
<u>\$ 176</u>	Potential entitlement per .725(a)
	\$ 66 AFDC grant originally issued
	50 <u>North Coast Coalition</u> retroactive benefit
	<u>\$ 116</u> AFDC grant issued per .725(b)
<u>\$-116</u>	
\$ 60	Potential retroactive benefit per .725(c), also the payable retroactive benefit per .725(d)

Example 3:

Same case situation as in Example 2 except: the UAM actually made available \$80 to the AU in July, the claimant received \$10 in North Coast benefits, and received \$30 in retroactive benefits under Green v. Obledo.

The computation of retroactive benefits is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received in month claimed
- 50	\$30 and one-third disregard available in the month claimed
- 50	Nonwillful overpayment adjusted in 7/77
- 80	Income from the UAM actually made available to AU
<u>\$ 126</u>	Potential entitlement per .725(a)
66	AFDC grant originally issued
+ 10	<u>North Coast Coalition</u> retroactive benefit
+ 30	<u>Green vs. Obledo</u> retroactive benefit
<u>\$ 106</u>	AFDC grant issued per .725(b)
- 106	
<u>\$ 20</u>	Potential retroactive benefit per .725(c), also the payable retroactive benefit per .725(d)

.73 Determining Eligibility for Average Retroactive Benefits

.731 When the CWD is unable to locate the case record as specified in .72 above and the claimant is requesting retroactive benefits for three or more consecutive months in any calendar year of the claim period, the CWD shall review the response to the inquiry regarding the claimant's income source, the date income started and the date(s)

the income stopped or dropped. For purposes of this review:

(a) The response shall be considered complete when the claimant provides: (1) the source of the income; (2) the date that the income started; and (3) the date that the income dropped or stopped.

(b) The response shall be considered internally consistent when the completed information covers the month(s) being claimed.

.732 The CWD may request missing information (specified in .731(a) above) or clarification by sending the claimant the notice specified in .433 above when the response is not complete or the information does not cover the month(s) being claimed.

.733 The CWD may obtain verification of the information provided, as specified in .731(a), through a collateral contact made to the source of the claimant's income. Circumstances in which a collateral contact may be warranted include, but are not limited to:

(a) When the source of the income indicated is not subject to frequent fluctuations, such as Social Security Benefits, Unemployment Insurance, etc.; and

(b) The date(s) that the income started and dropped or stopped do not correspond to the month(s) being claimed.

(1) In the event the collateral contact contradicts the information provided by the claimant, the CWD shall use the information obtained through the collateral contact to establish the month(s) of average retroactive benefits. The CWD shall deny any month(s) claimed, in which the collateral contact did not confirm the claimant's eligibility for retroactive benefits, with an NOA informing the claimant of his/her right to a state hearing.

.734 For those month(s) claimed which are not subject to the review specified in .731, (i.e., less than three consecutive months per calendar year), or which do not warrant a collateral contact specified in .733, or for which the collateral contact confirms entitlement, the CWD shall compute the amount of average retroactive benefits in accordance with .91 below (average retroactive benefits).

.8 Determination of Potential Eligibility for Retroactive Benefits Under the Angus vs. Woods Court Order.

.81 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons whose AFDC cash aid was reduced in order to recoup a willful overpayment and the amount of the aid received, when added to the amount of the claimant's net nonexempt and exempt income, was insufficient to meet: (a) his/her housing and utility costs; or (b) the Minimum Basic Standard of Adequate Care (MBSAC) for the number of children in the AU for the payment month during the period from September 1, 1977 through December 31, 1980.

.811 The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.82 Case Record Review

.821 For each month being claimed, (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms there was a willful overpayment recouped by grant adjustment in the month claimed;
- (c) If the claimant had a spouse who lived in the home during the period claimed; and

(d) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .827 below.

(e) The case record documents listed below may assist the CWD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents nor the documents themselves may be needed.

(1) The Application for Food Stamps (DFA 285, DFA 285A, or TEMP DFA 285-A);

(2) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);

(3) The appropriate Monthly Eligibility Report(s) (CA 7);

(4) The budget worksheet;

(5) Any NOA related to the cause/recoupment of the willful overpayment; and

(6) Any pertinent case narrative.

.822 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

(a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.823 The CWD shall flag each claim which indicates, from either the information provided on the claim form or in that contained in the case record, that the claimant's spouse, who lived in the home during the month(s) and year(s) claimed, no longer lives with the claimant. The CWD must be alert for a claim being submitted by the other spouse.

- (a) For those claims which do not require flagging, the CWD shall proceed with the determination of the amount of retroactive benefits and issuance of the retroactive payment.
- (b) For claims which have been flagged, the CWD shall proceed with the determination of the monthly retroactive benefits specified in .824 through .827(a)(6) below. For these claims, the determination of the total retroactive benefits for each calendar year, specified in .827(a)(7) and/or .912 below, shall be held pending the determination of the receipt of a claim from the other spouse no longer in the home. In these situations, the CWD may exceed the 120 day processing period for the claim first received, as allowed in .323(b) above, so long as the processing deadline is met for the claim received from the other spouse.
- (1) The CWD shall send a letter to the claimant informing him/her that he/she is entitled to retroactive benefits but the exact amount of those benefits cannot be determined until it is known if the spouse, no longer living in the home, will also claim retroactive benefits.
- (c) If the CWD receives a claim from the other spouse, the determination of the amount of retroactive benefits, specified in .827(a)(7) and/or .912 below, for the month(s) and year(s) jointly claimed shall be processed together.
- (d) In the event that either spouse claims additional months, the determination of retroactive benefits, as specified in .824 through .827 below, for the additional months shall be made separate from the determination for those months jointly claimed.
- (e) When the CWD has determined that the other spouse, no longer in the home, did not file a claim for retroactive benefits, the CWD

shall proceed with the determination of the amount of retroactive benefits and issuance of the retroactive payments to the initial claimant.

.824 For those months claimed in which the CWD receives a complete and internally consistent claim form, was unable to locate the case record, and was unable to deny the claim in accordance with .441 above or found the case record but it did not contain sufficient information, other than housing or utility costs, to calculate the retroactive benefit as specified in .827 below, the CWD shall determine the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits). For those months claimed when only the housing or utility cost information contained in the case record is insufficient to determine the retroactive benefit, the CWD shall determine the amount of the benefit in accordance with .826 below.

.825 For the month(s) claimed in which the case record information confirms that the claimant's grant was reduced because of the recoupment of a willful overpayment, the CWD shall determine whether the willful overpayment was caused by the claimant's failure to report either the presence of a UAM in the home or the presence or income of the stepparent living in the home.

(a) When the reason for the willful overpayment was a result of the failure to report the presence or income of either the UAM or stepparent, the CWD shall determine if the claimant is also claiming retroactive benefits under North Coast Coalition v. Woods (MPP Section 50-014.5) or Wood v. Woods (MPP Section 50-014.6) and, if so, whether the amount of the overpayment recoupment was included in the computation of retroactive benefit as specified in .536 or .636 above.

(b) When the total amount of the overpayment recoupment was used in the computation specified in .536(d) or .636(d) above, the CWD shall deny that month claimed because the recoupment has been fully refunded to

the claimant under either MPP Section 50-014.5 or MPP Section 50-014.6.

.826 For the month(s) claimed in which the case record information confirms that the claimant's grant was reduced because of the recoupment of a willful overpayment, the CWD shall determine if the claimant was certified for food stamps.

(a) For the month(s) claimed in which the case record information indicates a certification for food stamps and is sufficient to determine the amount of the housing and utility costs, the CWD shall determine the amount of the retroactive benefits for those months in accordance with .827 below.

(b) For the month(s) claimed in which the case record information indicates that the claimant was not certified for food stamps or the case record information is insufficient to determine the housing costs used in the calculation of the food stamp allotment, the CWD shall review the claim form (TEMP 1620) regarding the response to the question regarding receipt of food stamps and housing costs.

(1) When the claimant provided the housing costs for the month(s) claimed, the CWD shall determine the amount of retroactive benefits in accordance with .827 below.

(2) When the claimant did not provide the housing costs for the month(s) claimed, the CWD shall send the claimant a notice requesting the completion of this information. A copy of the claim form shall be attached to the notice. The claimant will be allowed 30 days from the date of the notice to respond to the request. If the claimant fails to provide a response to the request for each month claimed, the CWD shall determine the amount of the retroactive benefits for those months based on that determined in

accordance with .827(a)(1), (2) and (5), (MBSAC greater than cash) or .911(d)(1) (average retroactive benefit) below, whichever is greater. For the months in which housing costs are provided in response to this request, the CWD shall determine the amount of retroactive benefits as specified in .827 below.

.827 For the month(s) claimed for which it has been confirmed that:

(a) The case record contains sufficient information to calculate the amount of the retroactive benefit or the combination of the case record information and the information provided on the claim form regarding the housing cost is sufficient to calculate the amount of the retroactive benefit, the CWD shall determine the amount of the retroactive benefits as follows:

(1) Determine the amount of the AU's cash for the month claimed.

(A) For the purpose of this determination, cash is defined as the total of:

(i) The amount of AFDC received in the month claimed;

(ii) The amount of any underpayment correction made associated with the month claimed. (Retroactive benefits awarded under any other retroactive regulation implementing a court decision, excluding interest, are to be considered an underpayment correction);

(iii) The amount of net nonexempt income received in the month claimed; and

(iv) The amount of any exempted income received in the month claimed. See MPP Section 44-111.2 for what is exempt from consideration as income.

(2) Determine the MBSAC level for the number of children included in the AU during the month claimed. See Appendix B to MPP Section 50-014 for MBSAC levels.

(3) Determine the housing and utility costs of the AU for the month claimed.

(A) For claimants who were certified for food stamps in the month claimed and whose case record provides the housing and utility costs used in the food stamp computation, the CWD shall use the amounts contained in the case record.

(B) For claimants who were not certified for food stamps in the month claimed or those who were certified for food stamps but the case record information is insufficient to determine the housing and/or utility costs, the CWD shall use the housing costs provided on the claim form and the Standard Utility Allowance (SUA) specified (i) below for the month claimed.

(i) The SUA for any month claimed in 1976, 1977, 1978, and 1979 is \$57. The SUA for any month claimed in 1980 is \$74.

(4) Compare the MBSAC amount determined in (2) to the housing and utility costs determined in (3).

(A) When the amount of the MBSAC for the number of children in the AU is equal to or exceeds the amount of the AU's housing and utility costs, the CWD shall determine the claimant's entitlement as specified in (5) below.

(B) When the amount of the MBSAC for the number of children in the AU is less than the AU's housing and utility costs, the CWD shall determine the claimant's entitlement as specified in (6) below.

(5) The claimant is entitled to retroactive benefits when the amount of the MBSAC for the number of children in the AU exceeds the amount of the AU's cash for the month claimed. The amount of the retroactive benefit shall be calculated by subtracting from the MBSAC level determined in (2) the cash determined in (1).

(A) The month claimed shall be denied with an NOA informing the claimant of his/her right to a state hearing when the amount of the AU's cash is equal to or greater than the MBSAC for the number of children in the AU.

(6) The claimant is entitled to retroactive benefits when the amount of the housing and utility costs exceeds the amount of the AU's cash for the month claimed. The amount of the retroactive benefit shall be calculated by subtracting from the housing and utility amount determined in (3) the cash determined in (1).

(A) The month claimed shall be denied with an NOA informing the claimant of his/her right

to a state hearing when the amount of the AU's cash is equal to or greater than the housing and utility cost of the AU.

- (7) Determine the amount of the total retroactive benefits computed using case record information for each calendar year by adding together the amount(s) determined in (a)(5) and (a)(6) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for December 1977. The case record:

- (1) Confirms the receipt of AFDC in the claim month;
- (2) Confirms there was a willful overpayment being recovered through grant adjustment;
- (3) Shows that the AU consisted of the caretaker relative and two children;
- (4) Shows there was \$40 in net nonexempt income in the claim month;
- (5) Shows there was \$50 in exempted income in the claim month;
- (6) Shows that the grant originally issued was \$177;
- (7) Shows the amount of the overpayment recoupment was \$109; and
- (8) Shows that the claimant was not on food stamps.

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The claimant states that for this period, the AU's monthly housing costs were \$150.

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The amount of the retroactive benefit
is as follows:

\$ 177	AFDC grant issued
+ 40	Net nonexempt income
<u>+ 50</u>	Exempt income
\$ 267	Total case per .827(a)(1)
\$ 297	MBSAC for two (.827(a)(2))
\$ 150	Housing costs from claim form
<u>+ 57</u>	SUA per .827(a)(3)(B)
\$ 207	Housing and Utility Costs (.827(a)(3))

Is MBSAC for the number of children
equal to or greater than the
Housing and Utility Costs? YES.

Is MBSAC for the number of children
greater than the total cash of the
AU? YES.

\$ 297	MBSAC for two
<u>- 267</u>	Total cash
\$ 30	Retroactive Benefit per .827(a)(5)

Example 2:

Same case situation as in Example 1 except: the claimant received food stamps in the month claimed and the case record indicates that the AU's housing costs were \$255 and the utility costs were \$55, the amount of the grant originally issued was \$207; and the amount of the overpayment recouped was \$90.

The amount of the retroactive benefit is as follows:

\$ 207	AFDC grant issued
+ 40	Net nonexempt income
<u>+ 50</u>	Exempt income
\$ 297	Total cash per .827(a)(1)
\$ 297	MBSAC for two (.827(a)(2))
\$ 255	Housing costs
+ 55	Utility costs
<u>\$ 310</u>	Housing and Utility Costs (.827(a)(3))

Is MBSAC for the number of children equal to or greater than the Housing and Utility Costs? NO.

Are Housing and Utility Costs greater than the total cash of the AU? YES.

\$ 310	Housing and Utility Costs
- 297	Total Cash
<u>\$ 13</u>	Retroactive Benefit per .827(a)(6)

.828 For claimants who are claiming benefits for October 1980, November 1980, or December 1980, the CWD shall review the case record for the payment month of January 1981 to determine whether or not recoupment of the willfully caused overpayment through grant adjustment was ceased in accordance with All-County Letter No. 80-73, dated December 3, 1980.

- (a) For those claims in which the recoupment was ceased effective January 1981, no further action is necessary. The CWD shall proceed with the computation of interest and delivery of the retroactive payment contained in MPP Section 50-014.92.
- (b) For those claims in which it is discovered that the January 1981 grant was reduced as a result of recouping the willfully caused overpayment through grant adjustment, the CWD shall refund the amount of the overpayment recouped after December 1980 in accordance with current underpayment correction regulations, contained in MPP Section 44-340, as modified by the Edwards v. McMahon court order.
- (1) For the approved month(s) and year(s) claimed during the retroactive period the CWD shall proceed with the computation of interest and delivery of the retroactive payment in accordance with MPP Section 50-014.92.

.9 Computation and Delivery of the Retroactive Payment

.91 Average Retroactive Benefit

.911 The CWD shall use the average monthly retroactive benefit amount for each court case as follows:

- (a) North Coast Coalition v. Woods (MPP Section 50-014.5): \$101.00.
- (b) Wood v. Woods (MPP Section 50-014.6): \$176.78.
- (c) Wright v. Woods (MPP Section 50-014.7):

<u>Approved Months Claimed</u>	<u>Amount</u>
<u>July 1967 - December 1976</u>	<u>\$162.85</u>
<u>January 1977 - June 1977</u>	<u>172.74</u>
<u>July 1977 through July 1979</u>	<u>181.32</u>
<u>August 1979 through June 1980</u>	<u>82.00</u>
<u>July 1980 through December 1980</u>	<u>95.00</u>

(d) Angus v. Woods (MPP Section 50-014.8):

(1) For claimants who indicated "yes" to housing costs being greater than the grant plus other income: \$47.92.

(2) For claimants who indicated "yes" to the grant being reduced below the MBSAC level for the number of children: \$30.00.

.912 The CWD shall compute the amount of the average retroactive benefit amount to be awarded for each court case by multiplying the number of months claimed for each calendar year in which average retroactive benefits are to be used as determined in .534, .545(e)(1), .634, .645(e)(1), .734, .824, and/or .826(b)(2) above, by the appropriate amount specified in .911 above.

Example:

A claimant is eligible for the average retroactive benefit under North Coast Coalition v. Woods from July 1977 through March 1978 and Wright v. Woods for August 1978, September 1978, October 1979, and November 1979.

The computation of the average retroactive benefits is as follows:

North Coast Coalition v. Woods:

1977: 6 months x \$101.00 = \$606.00

1978: 3 months x \$101.00 = \$303.00

Wright v. Woods:

1978: 2 months x \$181.32 = \$362.64

1979: 2 months x \$ 82.00 = \$164.00

.92 Computation of Interest and Retroactive Payment

.921 The CWD shall use the percentage specified below to compute the amount of interest on the payable retroactive benefits for a calendar year.

(a) The percentage of the total retroactive benefits payable as interest for a calendar year for each court case is as follows:

(1) North Coast Coalition v. Woods and Wright v. Woods for 1976: 73%

(2) North Coast Coalition v. Woods and Wright v. Woods for 1977: 70%

(3) Angus v. Woods for 1977: 65%

(4) North Coast Coalition v. Woods, Wright v. Woods and Angus v. Woods for 1978: 63%

(5) North Coast Coalition v. Woods,
Wright v. Woods and Angus v. Woods
for 1979: 56%

(6) North Coast Coalition v. Woods,
Wright v. Woods, Wood v. Woods and
Angus v. Woods for 1980: 49%

(7) Wood v. Woods for 1981: 42%

.922 The CWD shall multiply the average retroactive
benefits for that calendar year for each court
case as determined in .912 above by the
appropriate percentage specified in .921(a) above
for that calendar year to arrive at the amount of
interest for each court case.

Example:

North Coast Coalition v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$606.00	\$303.00	\$ -0-
Times the Appropriate Percentage:	<u>x 70%</u>	<u>x 63%</u>	<u>x N/A</u>
Interest:	\$424.20	\$190.89	\$ -0-

Wright v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ 0	\$362.64	\$164.00
Times the Appropriate Percentage:	<u>x N/A</u>	<u>x 63%</u>	<u>x 56%</u>
Interest:	\$ 0	\$228.46	\$ 91.84

.923 The CWD shall multiply the actual retroactive
benefits for that calendar year for each court

case as determined in .536(f), .636(f), .725(e) or .827(a)(7) above by the appropriate percentage specified in .921 above to arrive at the amount of interest for that calendar year under each court case.

Example:

North Coast Coalition v. Woods

Actual Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ -0-	\$450.00	\$250.00
Times the Appropriate Percentage:	<u>x N/A</u>	<u>x 63%</u>	<u>x 56%</u>
Interest:	\$ -0-	\$283.50	\$140.00

.924 Computation of Claimant's Retroactive Payment

(a) The CWD shall add the amount of the average retroactive benefit for each calendar year for each court case as determined in .912 above to the amount of interest determined in .922 above for that calendar year and that court case.

Example:

North Coast Coalition v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$606.00	\$303.00	\$ -0-
Interest:	<u>+424.20</u>	<u>+190.89</u>	<u>-0-</u>
Total:	\$1,030.20	\$493.89	\$ -0-

Wright v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
Interest:	\$ 0	\$362.64	\$164.00
	\$ -0-	+228.46	+ 91.84
Total:	\$ 0	\$591.10	\$255.84

(b) The CWD shall add the amount of the actual retroactive benefit for each calendar year for each court case as determined in .536(f), .636(f), .725(e) or .827(a)(7) above to the amount of the interest determined in .923 above for that calendar year and that court case.

Example:

North Coast Coalition v. Woods

Actual Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ -0-	\$450.00	\$250.00
Interest:	+ -0-	+283.50	+140.00
Total:	\$ -0-	\$733.50	\$390.00

(c) The CWD shall add to the amounts determined in .924(a) above to the amounts determined in .924(b) above to determine the claimant's total retroactive payment for calendar year under each court case.

Example:

North Coast Coalition v. Woods

Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
Amount determined in .924(a):	\$1,030.20	\$493.89	\$ -0-
Amount determined in .924(b):	+ -0-	+733.50	+390.00
Total Retroactive Benefits:	\$1,030.20	\$1,227.39	\$390.00

Wright v. Woods

Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
Amount determined in .924(a):	\$ -0-	\$591.10	\$255.84
Amount determined in .924(b):	+ -0-	-0-	-0-
Total Retroactive Benefits:	\$ 0	\$591.10	\$255.84

(d) The CWD shall add together the amounts for each calendar year determined in .924(c) above under each court case to arrive at the claimant's total retroactive payment.

Example:

North Coast Coalition v. Woods

1977	\$ 1,030.20
1978	\$ 1,227.39
1979	\$ 390.00
Total Retroactive Payment:	\$ 2,647.59

Wright v. Woods

1977	\$ -0-
1978	\$ 591.10
1979	\$ 255.84
Total Retroactive Payment:	\$ 846.94

(e) For ease of warrant issuance, the CWD may round up to the next highest whole dollar the amount of the claimant's retroactive payment determined in .924(a) above.

Example:

	<u>Claimant's Payment</u> <u>(rounded)</u>
<u>North Coast Coalition v. Woods</u>	\$2,648.00
<u>Wright v. Woods</u>	\$ 847.00
Amount of Warrant	\$3,495.00

.93 Delivery of the Claimant's Retroactive Payment

.931 For Angus v. Woods claimants who have had the amount of their retroactive benefits processed together with the claim from the other spouse, no longer living in the home, in accordance with .823(c) above, the CWD shall award one-half of the retroactive payment determined in .924(a) to each spouse, with an NOA informing each claimant of the method of computation and that one-half of the payment has been issued to the other spouse who also claimed benefits for those same month(s) and year(s).

.932 The retroactive payment shall be delivered within 10-calendar days following the date of authorization.

(a) For claimants who are eligible for payments (excluding those claimants in Angus v. Woods subject to .931 above) the CWD may issue a single warrant combining the claimant's retroactive payments for all court cases, provided that the claimant receives individual NOAs informing him/her of the payment computation for each court case.

.933 The retroactive payment in .924(d) above, shall be used to offset any collectable outstanding overpayment (See MPP Section 44-351.3) which was discovered on or after January 1, 1981. Any amount in excess of the overpayment shall be paid to the claimant.

.934 The retroactive payment received by a current AFDC recipient shall not be considered income or property for AFDC purposes in the month of receipt or in the following month (See MPP Section 42-213.2(h)).

.935 Prior to or concurrent with the issuance of the retroactive payment, the CWD shall issue the appropriate NOA(s) explaining to the claimant:

(a) How the retroactive payment was computed;

(b) The provision specified in .934 above; and

(c) His/her right to request a state hearing.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10553; Order of the Mendocino County Superior Court dated November 7, 1984, in the case of North Coast Coalition vs. Woods (No. 41801); Order of the San Mateo County Superior Court dated March 1, 1985 in the case of Wood vs. Woods (No. 240331); Order of the San Mateo County Superior Court dated March 1, 1985 in the case of Wright vs. Woods (no. 214580); Order of the United States District Court for the Northern District of California dated July 12,

1985 in the case of Angus vs. Woods (No.
C-78-2000RHS).

Appendix A

Maximum Aid Payment (MAP) Levels: July 1, 1976 through December 31, 1981

Periods	7/1/76	1/1/77	7/1/77	7/1/79	7/1/80	1/1/81	7/1/81
	to	to	to	to	to	to	to
AU Size	12/31/76	6/30/77	6/30/79	6/30/80	12/31/80	6/30/81	12/31/81
1	157	166	175	201	232	227	248
2	258	273	287	331	382	374	408
3	319	338	356	410	473	463	506
4	379	402	423	487	563	550	601
5	433	459	483	556	642	628	686
6	487	516	543	625	722	706	771
7	534	566	596	686	792	775	846
8	581	616	649	747	862	844	922
9	628	666	701	807	932	912	996
10 or more	675	716	754	868	1002	981	1071

Appendix B

Minimum Basic Standard of Adequate Care (MBSAC) Levels: July 1, 1976 through December 31, 1981

Periods	7/1/76	1/1/77	7/1/77	7/1/79	7/1/80	1/1/81	7/1/81
	to	to	to	to	to	to	to
AU Size	12/31/76	6/30/77	6/30/79	6/30/80	12/31/80	6/30/81	12/31/81
1	168	168	177	204	235	231	248
2	282	282	297	342	393	386	408
3	343	343	361	416	480	470	506
4	422	422	444	511	591	577	601
5	487	487	513	590	682	667	686
6	549	549	578	665	768	751	771
7	604	604	636	732	845	827	846
8	667	667	702	808	933	913	922
9	730	730	769	885	1022	1000	1000
10	794	794	836	962	1111	1087	1087
*	7	7	7	8	9	9	9

*Each additional person.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD # 0785-41

8508011

AUG 21 9 43 AM '85
OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
AUG 23 1985
Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services

(AGENCY)

BY:

Linda S. McMahon

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

AUG 23 1985

At 4:13 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Marjorie Hershberger*
Deputy Secretary of State

LEAVE BLANK

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Diane Moritz Glazer, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED
Title: 22 MPP 30-753; 30-766.211
SECTIONS ADOPTED
MPP 30-766.1; 30-766.3, .4
SECTIONS REPEALED
MPP 30-766.1; 30-766.212, .213, .22, .23

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

Not Applicable

b. DATE OF ADOPTION OF REGULATION(S)

August 20, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

Not Applicable

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective on Filing with the Secretary of State as required by statutes: (list) Section 4, Chapter 86, Statutes of 1985
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

FINDING OF EMERGENCY

The adoption of these regulations and order of repeal is necessary for the immediate preservation of the public peace, health and safety of general welfare. The specific facts showing the need for immediate action are:

The proposed IHSS regulations will implement Assembly Bill 1470, which is an urgency statute necessary for the immediate preservation of the public peace, health and safety or general welfare, as specified in Section 7 of the bill.

AB 1470 amends Sections 12301 and 12302 of the Welfare and Institutions Code setting forth new reporting requirements for the county welfare departments and mandating that new allocation, county plan and program reduction processes become effective July 31, 1985. These new requirements will prevent recipients from being unduly jeopardized by providing the Department with the data needed to more accurately allocate and reallocate IHSS funds to the county. Some of the statutory mandates with regard to these allocations require immediate action on the part of both the state and county welfare departments in order to comply with statutory deadlines. Additionally, the implementation of these new requirements will provide counties with directives on how and when to make program reductions or other necessary actions to control IHSS expenditures. These directives are designed to avert the hardship on recipients that usually attends uneven, unguided attempts to control expenditures.

Current IHSS regulations do not conform to the requirements in AB 1470. If this new law is not implemented through our regulatory process expeditiously, counties will exceed their allocations, and could attempt to reduce costs without a statewide perspective, which could result in placing the health, welfare and safety of the aged, blind and disabled population at risk.

For the above reasons, these regulations are adopted on an emergency basis to take effect immediately upon filing or upon some later date specified in writing.

Amend MPP Section 30-753 to read:

30-753 SPECIAL DEFINITIONS

30-753

- (a) Allocation means federal, state, and county monies which are identified for a county by the Department for the purchase of services in the IHSS program.
- (b) Base Allocation means all federal, state, and county monies identified for counties by the Department for the purchase of services in the IHSS program, exclusive of any provider COLA allocation, but including recipient COLA.
- (ac) Base Rate means the amount of payment per unit of work before any premium is applied for overtime or related extraordinary payments.
- (ag) County Plan means the annual plan submitted to the State Department of Social Services specifying the method of IHSS delivery to meet program objectives, conditions, and fiscal limitations. ~~This plan shall be amended if the county or state determines expenditure levels or trends require program modification.~~
- (ee) CRT or Cathode Ray Tube means a device commonly referred to as a terminal which is used to enter data into the IHSS payrolling system.
- (df) CRT County means a county in which one or more CRTs have been located allowing the county to enter its data directly into the payrolling system.
- (eg) Deeming means procedures by which the income and resources of certain relatives, living in the same household as the recipient, are determined to be available to the recipient for the purposes of establishing eligibility and share of cost.
- (fh) Direct advance payment means a payment to be used for the purchase of authorized IHSS which is sent directly to the recipient in advance of the service actually being provided.
- (gi) Employee means the providers of IHSS under the individual delivery method as defined in Section 30-767.13.
- (hj) Employer means the recipient of IHSS when such services are purchased under the individual delivery method as defined in Section 30-767.13.

(ik) Equity Value means a resource's current market value after subtracting the value of any liens or encumbrances against the resources which are held by someone other than the recipient or his/her spouse.

(jl) Essential Services means:

- (1) Nonmedical personal services.
- (2) Paramedical services.
- (3) Protective supervision.
- (4) Snow removal, when appropriate.
- (5) Meal preparation and meal cleanup.

(m) Gatekeeper Client means a person placed in a skilled or intermediate care facility as a result of preadmission screening.

(kn) Hours worked means the time during which the provider is subject to the control of the recipient, and includes all the time the provider is required or permitted to work, exclusive of time spent by the provider traveling to and from work.

(to) Housemate means a person who shares a living unit with a recipient. An able and available spouse or a live-in provider is not considered a housemate.

(mp) Landlord/Tenant Living Arrangement means a shared living arrangement considered to exist when one housemate, the landlord, allows another, the tenant, to share housing facilities in return for a monetary or in-kind payment for the purpose of augmenting the landlord's income. A landlord/tenant arrangement is not considered to exist between a recipient and his/her live-in provider. Where housemates share living quarters for the purpose of sharing mortgage, rental, and other expenses, a landlord/tenant relationship does not exist, though one housemate may customarily collect the payment(s) of the other housemate(s) in order to pay mortgage/rental payments in a lump sum.

(ag) Licensed Health Care Professional means a person who is a physician, chiropractor, podiatrist or dentist as defined and authorized to practice in this state in accordance with the California Business and Professions Code.

(or) Live-In Provider means a provider who is not related to the recipient and who lives in the recipient's home expressly for the purpose of providing IHSS-funded services.

(ps) Minor means any person under the age of eighteen.

(qt) Net Nonexempt Income means income remaining after allowing all applicable income disregards and exemptions.

(ru) Nonessential Services means:

(1) All domestic services.

(2) Heavy cleaning.

(3) Related services except meal preparation and meal cleanup.

(4) Transportation services.

(5) Teaching and demonstration services.

(6) Yard hazard abatement, with the exception of snow removal.

(sy) Out-of-Home Care Facility means a housing unit other than the recipient's own home, as defined in (ty) below. Medical out-of-home care facilities include acute care hospitals, skilled nursing facilities, and intermediate care facilities. Nonmedical out-of-home care facilities include community care facilities and homes of relatives which are exempt from licensure, as specified in Section 46-325.5, where recipients are certified to receive board and care payment level from SSP.

(tw) Own Home means the place in which an individual chooses to reside. An individual's "own home" does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or a board and care facility. A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in his/her own home.

(ux) Paper County means a county which sends its data in paper document form for entry into the payroll system to the IHSS payroll contractor.

(vy) Payment Period means the time period for which wages are paid. There are two payment periods per month corresponding

to the first of the month through the fifteenth of the month and the sixteenth of the month through the end of the month.

(wz) Payrolling System means a service contracted by the state with a vendor to calculate paychecks to individual providers of IHSS; to withhold the appropriate employee taxes from the provider's wages; to calculate the employer's taxes; and to prepare and file the appropriate tax return.

(xaz) Personal Attendant means a provider who is employed by the recipient and, as defined by 29 CFR 552.6, who spends at least eighty percent of his/her time in the recipient's employ performing the following services:

- (1) Preparation of meals, as provided in Section 30-757.131.
- (2) Meal clean-up, as provided in Section 30-757.132.
- (3) Planning of menus, as provided in Section 30-757.133.
- (4) Consumption of food, as provided in Section 30-757.14(c).
- (5) Routine bed baths, as provided in Section 30-757.14(d).
- (6) Bathing, oral hygiene and grooming, as provided in Section 30-757.14(e).
- (7) Dressing, as provided in Section 30-757.14(f).
- (8) Protective supervision, as provided in Section 30-757.17.

(bb) Preadmission Screening means personal assessment of an applicant for placement in a skilled or intermediate care facility, prior to admission to determine the individual's ability to remain in the community with the support of community-based services.

(cc) Program Reductions mean service restrictions implemented by a county with prior SDSS approval in the priority order specified in Welfare and Institutions Code Section 12301(1) through (5) and MPP 30-766.211 (a through e reductions).

(dd) Provider Cost-of-Living Adjustment (COLA) means all federal state and county monies identified for counties by SDSS for the payment of wage and/or benefit increases for service providers in the IHSS program.

- (7ee) Recipient means a person receiving IHSS, including applicants for IHSS when clearly implied by the context of the regulations.
- (zff) Severely Impaired Individual means a recipient with a total assessed need, as specified in Section 30-763.26, for 20 hours or more per week of service in one or more of the following areas:
- (1) Any nonmedical personal service listed in Section 30-757.14.
 - (2) Preparation of meals and meal cleanup when assistance with consumption of food is required.
 - (3) Paramedical services.
- (aagg) Shared Living Arrangement means a situation in which one or more recipients reside in the same living unit with one or more persons. A shared living arrangement does not exist if a recipient is residing only with his/her able and available spouse.
- (eehh) Share of cost means an individual's net non-exempt income in excess of the applicable SSI/SSP benefit level which must be paid toward the cost of IHSS authorized by the county.
- (bb11) Spouse means a member of a married couple or a person considered to be a member of a married couple for SSI/SSP purposes.
- (dd11) SSI/SSP means the Supplemental Security Income and State Supplementary Program administered by the Social Security Administration of the United States Department of Health and Human Services in California.
- (eekk) Substantial Gainful Activity means work activity that is considered to be substantial gainful activity under the applicable regulations of the Social Security Administration, 20 CFR 416.932 through 416.934. Substantial work activity involves the performance of significant physical or mental duties, or a combination of both, productive in nature. Gainful work activity is activity for remuneration or profit, or intended for profit, whether or not profit is realized, to the individual performing it or to the persons, if any, for whom it is performed, or of a nature generally performed for remuneration or profit.
- (ff11) Substitute Payee means an individual who acts as an agent for the recipient.

(ggmm) Turnaround Timesheet means a three-part document issued by the state consisting of the paycheck, the statement of earnings, and the timesheet to be submitted for the next pay period.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Sections 10554, 12301 and 12304.

Repeal MPP Section 30-766.1:

30-766 PROGRAM CONTROLS (Continued)

30-766

.1 County Plan requirements shall include the following:

.11 Each county welfare department shall develop and submit to DSS a county plan which specifies the means by which IHSS will be provided in order to meet the objectives and conditions of the program and applicable portions of the budget act.

.111 The plan shall follow prescribed DSS format.

.112 Should allocated funds be insufficient to meet projected service needs of the county, the county shall indicate the following in its plan:

(a) Whether it intends to reduce the program or to provide additional county funding.

(b) If the program is to be reduced, the county's intended reductions.

(c) Counties shall have the authority to utilize administrative actions to reduce their rate of expenditure.

(1) Such actions shall include but not be limited to the following:

(A) Change in mode of service delivery.

(B) Reduction in hourly rate of payment.

.113 The county shall have the authority to amend its plan if the county deems it necessary.

(a) County amendments shall be submitted to DSS at least 15 days prior to implementation of the proposed program revisions.

.114 County plans and amendments shall be effective as submitted, except that the department shall take appropriate action to assure compliance if a plan or amendment is determined to be deficient.

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Authority: Welfare and Institutions Code Section 10553.

Reference: Welfare and Institutions Code Sections 10553 and 12301.

Adopt MPP Section 30-766.1 to read:

30-766 PROGRAM CONTROLS (Continued)

30-766

- .1 Each county welfare department shall develop and submit a county plan to SDSS no later than 30 days following receipt of its allocation, which specifies the means by which IHSS will be provided in order to meet the objectives and conditions of the program within its allocation.
- .11 The plan shall be submitted on a SDSS form and shall include at least:
 - .111 Projected caseload, hours paid, and costs per month by mode and demographic information required by Welfare and Institutions Code Section 12301.

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- (a) Information on caseload, including the number of persons who receive 20 or more hours of personal services, between 18 and 20 hours of personal services, the number of persons receiving protective supervision, other special characteristics of the population and the number of cases per age of recipient.
- (b) Expected impact on the In-Home Supportive Services program from any new or expanded programs or changed health characteristics of the population, including, but not limited to the impact of all of the following:
 - (1) The new linkages program authorized by Chapter 1637 of the Statutes of 1984;
 - (2) Multipurpose senior service centers;
 - (3) Adult day health care centers;
 - (4) Diagnostically related groups and early hospital discharges;
 - (5) Preadmission screening;
 - (6) Reported adult abuse.

(c) The county shall also report which methods of outreach are being utilized by the county regarding the availability of services under this article.

- .12 County plans and amendments shall be effective upon submission except as in .17 below.
- .13 In the event that funds are available for reallocation, priority shall be given to those counties which submit their county plans by the due date.
- .131 SDSS shall be permitted to reallocate funds from counties which are late based on SDSS's estimate for those counties.
- .14 Each county shall monitor its expenditures monthly. Upon discovery by either SDSS or the county that anticipated expenditures will exceed the amount of the county's base allocation, the county shall immediately submit to SDSS for approval an amended plan including the information specified in .15 below.
- .15 If a county's IHSS program base allocation is insufficient to meet projected service needs, the county shall specify within its plan:
- .151 whether it intends to implement program reductions; or
- .152 whether it intends to provide additional county funding; or
- .153 whether it chooses to utilize administrative actions to reduce the rate of expenditure.
- (a) Administrative actions include, but are not limited to the following:
- (1) Change in mode of service delivery;
- (2) Reduction in hourly rate of payment.
- .16 If program reductions are necessary, the county shall submit its reduction plan to SDSS for approval 30 days prior to mailing the reduction Notices of Action. The reduction plan shall include:
- .161 The services identified for reduction;

- .162 The number of severely impaired and nonseverely impaired recipients that will be notified;
- .163 The resulting expenditure reduction;
- .164 The proposed Notices of Action which will be used to notify IHSS recipients of the reductions.
- .17 Counties shall not implement program reductions without SDSS approval of the reduction plan.
- .18 Counties shall not be permitted to reduce services to a level which would create a projected county surplus. Counties that can remain within their base allocation shall not implement reductions.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Sections 12300.2 and 12301.

Amend MPP Section 30-766.211 and repeal MPP Sections 30-766.212, .213, .22, and .23 to read:

30-766 PROGRAM CONTROLS (Continued)

30-766

•2 Program reduction requirements shall include the following:
(Continued)

•21 To the extent feasible, all county reductions shall be made evenly throughout the year.

•211 To the extent necessary, and subject to the provisions of •212 and •213 below, counties shall implement one or more of the priorities specified in (a) through (e) below in the priority order listed.

(a) Reduction of the frequency with which one or more nonessential services provided.

(b) Elimination of one or more of the nonessential service categories.

(c) Termination and/or denial of eligibility to persons receiving only domestic services.

(d) Termination and/or denial of eligibility to persons who, in the absence of services, would not require immediate placement in a medical out-of-home care facility.

(e) Equal dollar reduction in costs for each IHSS case.

•212 It shall not be necessary for the county to exhaust all items within one priority before progressing to the next priority.

•213 The county shall have the authority to choose to implement a priority for only a portion of the caseload.

(a) Under such circumstances, the county shall develop standards by which the reduction determination is made.

•22 To the extent budgetary constraints allow, authorization reductions should be avoided which would require immediate placement of a recipient in an out-of-home

care facility. However, in no event shall authorization reductions be implemented which will require immediate recipient placement in a medical out-of-home care facility.

- *23 Recipient authorizations shall not be reduced if such reduction would require an employed recipient of IHSS to become unemployed.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Section 12301.

Adopt MPP Section 30-766.3 and .4 to read:

30-766 PROGRAM CONTROLS (Continued)

30-766

.3 Program reductions shall be implemented as follows:

.31 When implementing reductions under .211(a) and (b) above, services shall not be reduced if such reductions would:

.311 require an employed recipient to become unemployed; or,

.312 require a recipient to immediately enter an out-of-home care facility; or,

.313 create a life threatening situation by presenting a substantial threat to the recipient's health or safety.

.32 When implementing reductions under .211(c), (d), and (e) above services shall not be reduced if such reductions would:

.321 require an employed recipient to become unemployed; or,

.322 require a recipient to immediately enter an out-of-home care facility.

.33 If program reductions as defined in .211 and implemented pursuant to .31 and .32 above have been exhausted and are insufficient to remain within the allocation, the county shall reevaluate each recipient who qualified for exemptions described in .312 and .322 above. In reevaluating these recipients, the county shall reduce services to those recipients who would not be required to enter a medical out-of-home care facility in the absence of such services. The county shall implement program reductions accordingly for those recipients who do not meet the criteria set forth below.

.331 No recipient shall be considered at risk of immediate placement in a medical out-of-home care facility unless she/he is the following:

(a) a client with a documented need for paramedical services; or,

- (b) a gatekeeper client; or,
- (c) a Multipurpose Senior Services Program client; or,
- (d) a client currently receiving Medi-Cal/Medicare funded Home Health Care; or,
- (e) a client meeting other criteria developed by the county as part of its approved reduction plan.

.4 When implementing program reductions, pursuant to .211 above, a needs assessment shall be completed and documented in the case file for each potentially affected recipient.

.41 Face-to-face contact shall not be required when completing the revised program reduction needs assessment form as long as the provisions of 30-761.13 have been met.

.42 The reassessment due date shall not change as a result of the revised program reduction assessment form.

.43 A record shall be kept for each recipient of the hours reduced for each task and the reason for exempting each task not reduced in accordance with the county's approved reduction plan.

.44 Authorizations reduced as a result of program reductions shall be restored to the appropriate level on the following July 1.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Sections 10851, 12301, 12301.1, 12302 and 12306.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

8508271

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0585-30

REC-100-10000

AUG 27 12 23 PM '85

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING

AUG 28 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED, AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Linda S. McKeon

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

"Resubmission"

FILED

In the office of the Secretary of State
of the State of California

AUG 28 1985

At 4:09 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Maureen Hershberger*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Jerry Demorest, Regulations Analyst

TELEPHONE

916-323-0881

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22

SECTIONS AMENDED 63-407.21d and f through J, .223, .4 et seq., .52 and .521, .54 .822, .831b, .9 title; 63-408.1, .11 et seq., and .3 et seq.

SECTIONS ADOPTED

63-056, 63-407.92, 63-408.112, .12 et seq., .31j, and .32.

SECTIONS REPEALED

63-407.21e

3. TYPE OF ORDER (CHECK ONE)

☐ Regular

☒ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☐ No

☒ Yes, if yes give date of previous filing July 11, 1985

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF ADOPTION OF REGULATION(S)

August 26, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☒ Effective on filing 9-1-85 (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)

☒ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
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- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Adopt MPP Section 63-056 to read:

63-056 IMPLEMENTATION OF THE WORK REGISTRATION/JOB
SEARCH/VOLUNTARY QUIT PROVISIONS

63-056

CWDs shall implement the revised provisions of the work registration, job search, and voluntary quit regulations (Sections 63-407.21d and e, .223, .4 et. seq., .52, .521, .54, .822, .831b, .92; 63-408.1, .11 et. seq., .12 et. seq., .3, .31 and .32) as follows:

- .1 Effective September 1, 1985 these revised provisions shall apply to all new applicants.
- .2 These provisions shall be applied to participating households at the time of their recertification, or any other time they have office contact after August 31, 1985.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 7 CFR 272.1(g)(63)(i).

(2) Amend MPP Section 63-407, et. seq. to read:

63-407 WORK REGISTRATION REQUIREMENTS

63-407

•1 Persons Required to Register (Continued)

•2 Exemptions from Work Registration

•21 The following persons are exempt from the food stamp work registration requirement and shall not complete Form DE 8435 FS: (Continued)

d. A parent or other household member who is responsible for the care of a dependent child under 12 6 or an incapacitated person. If the child has his/her 12th 6th birthday within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirements as part of the next scheduled recertification process, unless the individual qualifies for another exemption;

e. A parent or other caretaker of a child under 18 in a household where another able-bodied parent is registered for work, or is exempt as a result of employment. If the child has his/her 18th birthday within a certification period, the parent or caretaker must fulfill the work registration requirement as part of the next scheduled recertification process, unless the parent or caretaker qualifies for another exemption;

fe. A person who is in receipt of unemployment compensation or who has applied for, but has not yet begun to receive unemployment compensation, if that person was required to register for work with EDD as a part of the unemployment compensation application process. Such persons shall be considered registered for work for six months (beginning the date of food stamp application) provided the application for unemployment compensation was made within two months prior to the date of application. If the exemption claimed is questionable, the CWD shall be responsible for verifying the exemption with the appropriate EDD office as required by Section 63-300.53;

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•22 Loss of Work Registration Exemptions (Continued)

•223 Those persons exempt because they are registered for work under one of the programs specified in Section 63-407.21c, e, and f; i and are deemed ineligible to participate in that program due to a change in household circumstances other than failing to comply with the work registration requirements of that program shall register for work under the Food Stamp Program within 10 calendar days from the date they lose their eligibility for that program. For treatment of persons who fail to comply with the work registration requirements of a program specified in Section 63-407.21c, e, and f; i; see Sections 63-407.47 and 63-407.52.

•3 CWD Requirements (Continued)

•4 Work Registrants Requirements

Work registrants shall:

All persons required to register for work under the Food Stamp Program (via Form DE 8435FS) or under an alternate program specified in Section 63-407.21c, e, or i, shall meet the following additional requirements when requested by the agency they are registered with:

- 41 Report for an a job assessment interview upon the reasonable request of the appropriate EBB.
- 42 Respond to a request from the EBB office for supplemental information regarding employment status or availability for work.
- 43 Report to an employer to whom referred by the EBB office, if the potential employment meets the suitability requirements described in Section 63-407.7.

- 44 Accept a bona fide offer of suitable employment, as defined in Section 63-407.7, to which referred by the EBB officer.
- 45 Continue suitable employment to which referred by the EBB officer. Household members shall continue such employment until it is no longer considered suitable in accordance with Section 63-407.7, until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirement as provided in Section 63-407.2.
- 46 Comply with the job search requirements described in Section 63-407.8.
- 47 Comply with the requirements of the work registration process for non-WIN Public Assistance, County General Assistance, or Refugee Resettlement Program in which the registrant is participating. Registrant's activities shall be monitored so that appropriate sanctions as required by Section 63-407.5 of these regulations will be applied. For Food Stamp Program purposes, registrants shall not be required to comply with work registration requirements which exceed those required above in Sections 63-407.41 through 46.

•5 Failure to Comply (Continued)

- 52 If the CWD is informed by EBB that a household member work registrant, (including individuals required to register for work under non-WIN Public Assistance, General Assistance or Refugee Resettlement Programs) has refused or failed without good cause to comply with the any requirements of Section 63-407.4, the entire household shall be ineligible to participate for two months. Such ineligibility shall continue in the Food Stamp Program for two months or until one of the following occurs: either

- a. If the member becomes exempt from the work registration requirement;
- b. If or the member complies with the requirements of Section 63-407.6.

- 521 Household members who are required to register for work under WIN or unemployment compensation and fail to comply with the work registration requirements of those

programs shall not be denied food stamp benefits for this failure. These members lose their Food Stamp work registration exemption under Section 63-407.21c of 21f and must register for work if required to do so in Section 63-407.1.

If the CWD is informed that a household member who is registered for work under any of the alternate programs specified in Sections 63-407.21c, e, or i, has refused or failed without good cause to comply with a work registration requirement, the CWD shall determine if the requirement is comparable to the food stamp requirements specified in Section 63-407.4.

(a) If the CWD determines that the work registration requirement is comparable, the entire household shall be disqualified in accordance with .52 above. The household shall be notified of the disqualification as specified in Section 63-407.53.

(1) A household shall not be disqualified from participation if the noncomplying member is no longer required to be work registered in accordance with Section 63-407.2.

(b) If the CWD determines that the work registration requirement is not comparable, the household shall not be disqualified. However, the noncomplying member shall lose his/her food stamp work registration exemption under Section 63-407.21c, e, or i and must register for work, if required to do so under Section 63-407.1.

.54 Determining Good Cause

EDD shall be responsible for determining good cause in those instances where the work registrant has failed to comply with the requirements of Section 63-407.4.

In determining if good cause existed for failure to comply with any work registration/job search requirements, EDD shall consider the facts and circumstances, including information submitted by the household member involved and/or the employer. Good cause shall include circumstances beyond the member's

control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, lack of adequate child care for children between the ages of six and twelve, [see Section 63-408.31(1)], the unavailability of transportation, or problems caused by inability of the work registrant to speak, read, or write English.

.8 Job Search (Continued)

.82 Requirements (Continued)

.822 Work registrants classified in Category II will not be assigned any specific job search activity. Job attached persons who have not returned to their jobs or otherwise become exempt from the work registration requirement may be called in for reassessment at the end of sixty days. Other persons may be called in by EDD during the ~~six~~ 12-month registration period. During subsequent interviews, job files will be reviewed for potential referrals, and the job search categorization of such individuals will be reassessed.

.83 Follow-up Activities (Continued)

.831 Scheduling Follow-up Interviews (Continued)

- b. Category II registrants shall be informed that they shall be contacted either within the ~~six~~ 12-month registration period or in 60 days if they are job attached.

.9 Optional Food Stamp Workfare Employment Programs (Continued)

.91 Counties shall be permitted to operate the Food Stamp Workfare Program in accordance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.22.

.92 Counties shall obtain state approval to operate the Optional Food Stamp Applicant Job Search Program in compliance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.7.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 USC Section 2029 and 7 CFR Sections 273.22 and 273.7.

(3) Amend MPP Sections 63-408.1, et seq., .3 and .31 to read:

63-408 VOLUNTARY QUIT

63-408

.1 No applicant or participating household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible for participation in the program as specified below.

.11 Application Processing (Continued)

.111 When a household files an application or reapplication, the county welfare department (CWD) shall determine if any currently unemployed household member who is required to register for full-time work has quit his/her most recent job without good cause within the last 60 days. The CWD shall explain to the applicant the consequences of the primary wage earner quitting his/her job without good cause. For the purpose of this subsection, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

.112 When the CWD learns that a household has lost a source of earned income after the date of application but before the household is certified, the CWD shall determine whether a voluntary quit occurred.

.1123 (Continued)

.1134 Upon a determination that the primary wage earner voluntarily quit employment, the CWD shall determine if the voluntary quit was with good cause as defined in Section 63-40738.3. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of two months beginning with the month of the quit 90 days starting from the date of application. The household shall be

advised of the reason for the denial and of its rights to reapply and/or request a state hearing.

- 1145 If an application for participation in the program is filed in the second third month of disqualification, the CWD shall use the same application for:

- (a) the denial of benefits in for the remainingder month of the disqualification period and; use that same application for

- (b) certification of benefits after the final day of disqualification for any subsequent month(s) if all other eligibility criteria are met. (See Section 63-503.11.)

•12 Participating Households

- 121 When the CWD learns that a participating household has lost a source of earned income, the CWD shall determine whether any household member voluntarily quit his or her job.

- 122 Upon a determination by the CWD that the primary wage earner voluntarily quit employment, the CWD shall determine if the voluntary quit was with good cause as defined in Section 63-408.3.

- (a) If the voluntary quit was not for good cause, the household shall be disqualified for a period of three (3) calendar months. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6.

- (b) If a household leaves the program before the sanction can be imposed, the sanction shall be applied when the household returns to the program.

•2 Exemptions from voluntary quit provisions. (Continued)

- 3 Good cause. The CWD shall be responsible for determining good cause in those instances where an applicant a primary wage earner has voluntarily quit a job. The CWD shall

consider the facts and circumstances, including information submitted by the household member involved and the employer.

.31 Good cause for leaving employment shall include:

•31 (a)

•32 (b)

•33 (c)

•34 (d)

•35 (e)

•36 (f)

•37 (g)

•38 (h)

•39 (i)

(j) Situations where there is a lack of adequate child care arrangements available for the registrants children between six and twelve years of age. For purposes of this section, adequate child care arrangements means those which meet the standards in Title 22, California Administrative Code (CAC), Division 6, Chapter 2 (commencing with Section 81000) and Chapter 8.5 (commencing with Section 88001).

.32 The following shall not constitute good cause for leaving employment:

(a) When federal, state, or local government employees who have been dismissed from their jobs because of participation in a strike against the government entity involved.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.7.